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**NOTE**

RULES RELATING TO OVER-THE-COUNTER MARKETS

Rule 15c1-1. Definitions.

As used in any rule adopted pursuant to Section 15(c)(1) of the Act:

(a) The term “customer” shall not include a broker or dealer or a municipal securities dealer; provided, however, that the term “customer” shall include a municipal securities dealer (other than a broker or dealer) with respect to transactions in securities other than municipal securities.

(b) The term “the completion of the transaction” means:

(1) In the case of a customer who purchases a security through or from a broker, dealer or municipal securities dealer, except as provided in subparagraph (2) of this paragraph, the time when such customer pays the broker, dealer or municipal securities dealer any part of the purchase price, or, if payment is effected by a bookkeeping entry, the time when such bookkeeping entry is made by the broker, dealer or municipal securities dealer for any part of the purchase price;

(2) In the case of a customer who purchases a security through or from a broker, dealer or municipal securities dealer and who makes payment therefor prior to the time when payment is requested or notification is given that payment is due, the time when such broker, dealer or municipal securities dealer delivers the security to or into the account of such customer;

(3) In the case of a customer who sells a security through or to a broker, dealer or municipal securities dealer except as provided in subparagraph (4) of this paragraph, if the security is not in the custody of the broker, dealer or municipal securities dealer at the time of sale, the time when the security is delivered to the broker, dealer or municipal securities dealer, and if the security is in the custody of the broker, dealer or municipal securities dealer at the time of sale, the time when the broker, dealer or municipal securities dealer transfers the security from the account of such customer;

(4) In the case of a customer who sells a security through or to a broker, dealer or municipal securities dealer and who delivers such security to such broker, dealer or municipal securities dealer prior to the time when delivery is requested or notification is given that delivery is due, the time when such broker, dealer or municipal securities dealer makes payment to or into the account of such customer.

Rule 15c1-2. Fraud and Misrepresentation.

(a) The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(b) The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any untrue statement of a material fact and any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, which statement or omission is made with knowledge or reasonable grounds to believe it is untrue or misleading.

(c) The scope of this rule shall not be limited by any specific definitions of the term “manipulative, deceptive, or other fraudulent device or contrivance” contained in other rules adopted pursuant to Section 15(c)(1) of the Act.
Rule 15c1-3. Misrepresentation By Brokers, Dealers and Municipal Securities Dealers as to Registration.

The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any representation by a broker, dealer or municipal securities dealer that the registration of a broker or dealer, pursuant to Section 15(b) of the Act, or the registration of a municipal securities dealer pursuant to Section 15B(a) of the Act, or the failure of the Commission to deny or revoke such registration, indicates in any way that the Commission has passed upon or approved the financial standing, business, or conduct of such registered broker, dealer or municipal securities dealer or the merits of any security or any transaction or transactions therein.

Rule 15c1-5. Disclosure of Control.

The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer controlled by, controlling, or under common control with, the issuer of any security, designed to effect with or for the account of a customer any transaction in, or to induce the purchase or sale by such customer of, such security unless such broker, dealer or municipal securities dealer, before entering into any contract with or for such customer for the purchase or sale of such security, discloses to such customer the existence of such control, and unless such disclosure, if not made in writing, is supplemented by the giving or sending of written disclosure at or before the completion of the transaction.


The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any act of any broker who is acting for a customer or for both such customer and some other person, or of any dealer or municipal securities dealer who receives or has promise of receiving a fee from a customer for advising such customer with respect to securities, designed to effect with or for the account of such customer any transaction in, or to induce the purchase or sale by such customer of, any security in the primary or secondary distribution of which such broker, dealer or municipal securities dealer is participating or is otherwise financially interested unless such broker, dealer or municipal securities dealer at or before the completion of each such transaction, gives or sends to such customer written notification of the existence of such participation or interest.


(a) The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer’s account in respect to which such broker, dealer or municipal securities dealer or his agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(b) The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any act of any broker, dealer or municipal securities dealer designed to effect with or for any customer’s account in respect to which such broker, dealer or municipal securities dealer or his agent or employee is vested with any discretionary power any transaction of purchase or sale unless immediately after effecting such transaction such broker, dealer or municipal securities dealer makes a record of such transaction which record includes

The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include any representation made to a customer by a broker, dealer or municipal securities dealer who is participating or otherwise financially interested in the primary or secondary distribution of any security which is not admitted to trading on a national securities exchange that such security is being offered to such customer “at the market” or at a price related to the market price unless such broker, dealer or municipal securities dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by him, or by any person for whom he is acting or with whom he is associated in such distribution, or by any person controlled by, controlling or under common control with him.


The term “manipulative, deceptive, or other fraudulent device or contrivance,” as used in Section 15(c)(1) of the Act, is hereby defined to include the use of financial statements purporting to give effect to the receipt and application of any part of the proceeds from the sale or exchange of securities, unless the assumptions upon which each such financial statement is based are clearly set forth as part of the caption to each such statement in type at least as large as that used generally in the body of the statement.

Rule 15c2-1. Hypothecation of Customers’ Securities.

(a) General Provisions. The term “fraudulent, deceptive, or manipulative act or practice,” as used in Section 15(c)(2) of the Act, is hereby defined to include the direct or indirect hypothecation by a broker or dealer, or his arranging for or permitting, directly, or indirectly, the continued hypothecation of any securities carried for the account of any customer under circumstances:

(1) That will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation;

(2) That will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such broker or dealer under a lien for a loan made to such broker or dealer; or

(3) That will permit securities carried for the account of customers to be hypothecated, or subjected to any lien or liens or claim or claims of the pledgee or pledgees, for a sum which exceeds the aggregate indebtedness of all customers in respect of securities carried for their accounts; except that this clause shall not be deemed to be violated by reason of an excess arising on any day through the reduction of the aggregate indebtedness of customers on such day, provided that funds or securities in an amount sufficient to eliminate such excess are paid or placed in transfer to pledgees for the purpose of reducing the sum of the liens or claims to which securities carried for the account of customers are subject as promptly as practicable after such reduction occurs, but before the lapse of one-half hour after the commencement of banking hours on the next banking day at the place where the largest principal amount of loans of such broker or dealer are payable and, in any event, before such broker or dealer on such day has obtained or increased any bank loan collateralized by securities carried for the account of customers.
(b) **Definitions.** For the purposes of this rule:

(1) The term “customer” shall not include any general or special partner or any director or officer of such broker or dealer, or any participant, as such, in any joint, group or syndicate account with such broker or dealer or with any partner, officer or director thereof. The term also shall not include a counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer’s cash management securities activities or ancillary portfolio management securities activities, and who has received a prominent written notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer’s failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa through 78llll) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of Exchange Act Rule 8c-1, Exchange Act Rule 15c2-1, Exchange Act Rule 15c3-2, or Exchange Act Rule 15c3-3;

(2) The term “securities carried for the account of any customer” shall be deemed to mean:

(i) Securities received by or on behalf of such broker or dealer for the account of any customer;

(ii) Securities sold and appropriated by such broker or dealer to a customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be “securities carried for the account of any customer” pending their release from such lien as promptly as practicable;

(iii) Securities sold, but not appropriated, by such broker or dealer to a customer who has made any payment therefor, to the extent that such broker or dealer owns and has received delivery of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be “securities carried for the account of any customer” pending their release from such lien as promptly as practicable;

(3) “Aggregate indebtedness” shall not be deemed to be reduced by reason of uncollected items. In computing aggregate indebtedness, related guaranteed and guarantor accounts shall be treated as a single account and considered on a consolidated basis, and balances in accounts carrying both long and short positions shall be adjusted by treating the market value of the securities required to cover such short positions as though such market value were a debit; and

(4) In computing the sum of the liens or claims to which securities carried for the account of customers of a broker or dealer are subject, any rehypothecation of such securities by another broker or dealer who is subject to this rule or to Rule 8c-1 shall be disregarded.

(c) **Exemption For Cash Accounts.** The provisions of paragraph (a)(1) hereof shall not apply to any hypothecation of securities carried for the account of a customer in a special cash account within the meaning of Section 4(c) of Regulation T of the Board of Governors of the Federal Reserve System, provided that at or before the completion of the transaction of purchase of such securities for, or of sale of such securities to, such customer, written notice is given or sent to such customer disclosing
that such securities are or may be hypothecated under circumstances which will permit the commingling thereof with securities carried for the account of other customers. The term “the completion of the transaction” shall have the meaning given to such term by Rule 15c1-1(b).

(d) Exemption For Clearing House Liens. The provisions of paragraphs (a)(2), (a)(3), and (f) hereof shall not apply to any lien or claim of the clearing corporation, or similar department or association, of a national securities exchange or a registered national securities association, for a loan made and to be repaid on the same calendar day, which is incidental to the clearing of transactions in securities or loans through such corporation, department or association: provided, however, that for the purpose of paragraph (a)(3) hereof, “aggregate indebtedness of all customers in respect of securities carried for their accounts” shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.

(e) Exemption For Certain Liens on Securities of Noncustomers. The provisions of paragraph (a)(2) hereof shall not be deemed to prevent such broker or dealer from permitting securities not carried for the account of a customer to be subjected: (i) to a lien for a loan made against securities carried for the account of customers, or (ii) to a lien for a loan made and to be repaid on the same calendar day. For the purpose of this exemption, a loan shall be deemed to be “made against securities carried for the account of customers” if only securities carried for the account of customers are used to obtain or to increase such loan or as substitutes for other securities carried for the account of customers.

(f) Notice and Certification Requirements. No person subject to this rule shall hypothecate any security carried for the account of a customer unless, at or prior to the time of each such hypothecation, he gives written notice to the pledgee that the security pledged is carried for the account of a customer and that such hypothecation does not contravene any provision of this rule, except that in the case of an omnibus account the broker or dealer for whom such account is carried may furnish a signed statement to the person carrying such account that all securities carried therein by such broker or dealer will be securities carried for the account of his customers and that the hypothecation thereof by such broker or dealer will not contravene any provision of this rule. The provisions of this clause shall not apply to any hypothecation of securities under any lien or claim of a pledgee securing a loan made and to be repaid on the same calendar day.

(g) The fact that securities carried for the accounts of customers and securities carried for the accounts of others are represented by one or more certificates in the custody of a clearing corporation or other subsidiary organization of either a national securities exchange or of a registered national securities association, or of a custodian bank, in accordance with a system for the central handling of securities established by a national securities exchange or a registered national securities association, pursuant to which system the hypothecation of such securities is effected by bookkeeping entries without physical delivery of such securities, shall not, in and of itself, result in a commingling of securities prohibited by paragraph (a)(1) or (a)(2) hereof, whenever a participating member, broker or dealer hypothecates securities in accordance with such system, provided, however, that: (i) any such custodian of any securities held by or for such system shall agree that it will not for any reason, including the assertion of any claim, right or lien of any kind, refuse or refrain from promptly delivering any such securities (other than securities then hypothecated in accordance with such system) to such clearing corporation or other subsidiary organization or as directed by it, except that nothing in such agreement shall be deemed to require the custodian to deliver any securities in contravention of any notice of levy, seizure or similar notice, or order, or judgment, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over such custodian, which on its face affects such securities; (ii) such systems shall have safeguards in the handling, transfer and delivery of securities
and provisions for fidelity bond coverage of the employees and agents of the clearing corporation or other subsidiary organization and for periodic examinations by independent public accountants; and (iii) the provisions of this subparagraph (g) shall not be effective with respect to any particular system unless the agreement required by (i) and the safeguards and provisions required by (ii) shall have been deemed adequate by the Commission for the protection of investors, and unless any subsequent amendments to such agreement, safeguards or provisions shall have been deemed adequate by the Commission for the protection of investors.

Rule 15c2-4. Transmission or Maintenance of Payments Received in Connection With Underwritings.

It shall constitute a “fraudulent, deceptive or manipulative act or practice” as used in Section 15(c)(2) of the Act, for any broker, dealer or municipal securities dealer participating in any distribution of securities, other than a firm-commitment underwriting, to accept any part of the sale price of any security being distributed unless:

(a) The money or other consideration received is promptly transmitted to the persons entitled thereto; or

(b) If the distribution is being made on an “all-or-none” basis, or on any other basis which contemplates that payment is not to be made to the person on whose behalf the distribution is being made until some further event or contingency occurs: (1) the money or other consideration received is promptly deposited in a separate bank account, as agent or trustee for the persons who have the beneficial interests therein, until the appropriate event or contingency has occurred, and then the funds are promptly transmitted or returned to the persons entitled thereto, or (2) all such funds are promptly transmitted to a bank which has agreed in writing to hold all such funds in escrow for the persons who have the beneficial interests therein and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency has occurred.

Rule 15c2-5. Disclosure and Other Requirements When Extending or Arranging Credit in Certain Transactions.

(a) It shall constitute a “fraudulent, deceptive or manipulative act or practice” as used in Section 15(c)(2) of the Act for any broker or dealer to offer or sell any security to, or to attempt to induce the purchase of any security by, any person, in connection with which such broker or dealer, directly or indirectly, offers to extend any credit to or to arrange any loan for such person, or extends to or participates in arranging any loan for such person, unless such broker or dealer, before any purchase, loan or other related element of the transaction is entered into:

(1) Delivers to such person a written statement setting forth the exact nature and extent of: (i) such person’s obligations under the particular loan arrangement, including, among other things, the specific charges which such person will incur under such loan in each period during which the loan may continue or be extended, (ii) the risks and disadvantages which such person will incur in the entire transaction, including the loan arrangement, (iii) all commissions, discounts, and other remuneration received and to be received, in connection with the entire transaction including the loan arrangement, by the broker or dealer, by any person controlling, controlled by, or under common control with the broker or dealer, and by any other person participating in the transaction; provided, however, that the broker or dealer shall be deemed to be in compliance with this subparagraph if the customer, before any purchase, loan, or other related element of the transaction is entered into in a manner legally binding upon the customer, receives a statement from the lender, or receives a prospectus or offering circular from the broker or dealer, which statement, prospectus or offering circular contains the information required by this subparagraph; and
(2) Obtains from such person information concerning his financial situation and
needs, reasonably determines that the entire transaction, including the loan arrange-
ment, is suitable for such person, and retains in his files a written statement setting forth
the basis upon which the broker or dealer made such determination; provided, however,
that the written statement referred to in this subparagraph must be made available to the
customer on request.

(b) This rule shall not apply to any credit extended or any loan arranged by any
broker or dealer subject to the provisions of Regulation T (issued by the Board of
Governors of the Federal Reserve System) if such credit is extended or such loan is
arranged, in compliance with the requirements of such regulation, only for the purpose of
purchasing or carrying the security offered or sold; provided, however, that notwithstanding this paragraph, the provisions of paragraph (a) shall apply in full force with
respect to any transaction involving the extension of or arrangement for credit by a
broker or dealer: (i) in a special insurance premium funding account within the meaning
of Section 4(k) of Regulation T, or (ii) in compliance with the terms of Rule 3a12-5.

(c) This rule shall not apply to any offer to extend credit or arrange any loan, or to
any credit extended or loan arranged, in connection with any offer or sale, or attempt to
induce the purchase, of any municipal security.

(d) This Rule 15c2-5 shall not apply to a transaction involving the extension of
credit by an OTC derivatives dealer, as defined in Exchange Act Rule 3b-12, if the
transaction is exempt from the provisions of Section 7(c) of the Act (15 U.S.C. 78g(c))
pursuant to Exchange Act Rule 36a1-1.

Rule 15c2-6. Sale Practice Requirements For Certain Low-Priced Securities.

[Removed and reserved; Release No. 34-32576. Redesignated as Rule 15g-9.]


(a) It shall constitute an attempt to induce the purchase or sale of a security by
making a “fictitious quotation” within the meaning of Section 15(c)(2) of the Act, for
any broker or dealer to furnish or submit, directly or indirectly, any quotation for a
security (other than a municipal security) to an inter-dealer quotation system unless:

(1) The inter-dealer quotation system is informed, if such is the case, that the
quotations is furnished or submitted:

(A) By a correspondent broker or dealer for the account or in behalf of another
broker or dealer, and if so, the identity of such other broker or dealer; and/or

(B) In furtherance of one or more other arrangements (including a joint account,
guarantee of profit, guarantee against loss, commission, markup, markdown, indication
of interest and accommodation arrangement) between or among brokers or dealers, and
if so, the identity of each broker or dealer participating in any such arrangement or
arrangements; provided, however, that the provisions of this subparagraph shall not
apply if only one of the brokers or dealers participating in any such arrangement
or arrangements furnishes or submits a quotation with respect to the security to an
inter-dealer quotation system.

(2) The inter-dealer quotation system to which the quotation is furnished or sub-
mitted makes it a general practice to disclose with each published quotation, by
appropriate symbol or otherwise, the category or categories (subparagraphs (a)(1)(A)
and/or (a)(1)(B)) in furtherance of which the quotation is submitted, and the identities
of all other brokers and dealers referred to in subparagraphs (a)(1)(A) and (a)(1)(B)
where such information is supplied to the inter-dealer quotation system under the
provisions of paragraph (a)(1) of this rule.
(b) It shall constitute an attempt to induce the purchase or sale of a security by making a “fictitious quotation,” within the meaning of Section 15(c)(2) of the Act, for a broker or dealer to enter into any correspondent or other arrangement (including a joint account, guarantee of profit, guarantee against loss, commission, markup, markdown, indication of interest and accommodation arrangement) in furtherance of which two or more brokers or dealers furnish or submit quotations with respect to a particular security unless such broker or dealer informs all brokers or dealers furnishing or submitting such quotations of the existence of such correspondent and other arrangements, and the identity of the parties thereto.

(c) For purposes of this rule:

1. The term “inter-dealer quotation system” shall mean any system of general circulation to brokers and dealers which regularly disseminates quotations of identified brokers or dealers but shall not include a quotation sheet prepared and distributed by a broker or dealer in the regular course of his business and containing only quotations of such broker or dealer.

2. The term “quotation” shall mean any bid or offer, or any indication of interest (such as OW or BW) in any bid or offer.

3. The term “correspondent” shall mean a broker or dealer who has a direct line of communication to another broker or dealer located in a different city or geographic area.


(a) It shall constitute a deceptive act or practice, as those terms are used in Section 15(c)(2) of the Act, for a broker or dealer to participate in a distribution of securities with respect to which a registration statement has been filed under the Securities Act of 1933 unless he complies with the requirements set forth in paragraphs (b) through (h) of this section. For the purposes of this section a broker or dealer participating in the distribution shall mean any underwriter and any member or proposed member of the selling group.

(b) In connection with an issue of securities, the issuer of which has not previously been required to file reports pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, unless such issuer has been exempted from the requirement to file reports thereunder pursuant to Section 12(h) of the Act, such broker or dealer shall deliver a copy of the preliminary prospectus to any person who is expected to receive a confirmation of sale at least 48 hours prior to the sending of such confirmation. Provided, however, this paragraph (b) shall apply to all issuances of asset-backed securities (as defined in § 229.1101(c) of this chapter) regardless of whether the issuer has previously been required to file reports pursuant to sections 13(a) or 15(d) of the Securities Exchange Act of 1934, or exempted from the requirement to file reports thereunder pursuant to section 12(h) of the Act (15 U.S.C. 78l).

(c) Such broker or dealer shall take reasonable steps to furnish to any person who makes written request for a preliminary prospectus between the filing date and a reasonable time prior to the effective date of the registration statement to which such prospectus relates, a copy of the latest preliminary prospectus on file with the Commission. Reasonable steps shall include receiving an undertaking by the managing underwriter or underwriters to send such copy to the address given in the requests.

(d) Such broker or dealer shall take reasonable steps to comply promptly with the written request of any person for a copy of the final prospectus relating to such securities during the period between the effective date of the registration statement and the later of either the termination of such distribution, or the expiration of the applicable 40- or 90-day period under Section 4(3) of the Securities Act of 1933. Reasonable steps shall include receiving an undertaking by the managing underwriter or under-
writers to send such copy to the address given in the requests. (The 40-day and 90-day periods referred to above shall be deemed to apply for purposes of this rule irrespective of the provisions of paragraphs (b) and (d) of § 230.174 of this chapter.)

(e) Such broker or dealer shall take reasonable steps: (i) to make available a copy of the preliminary prospectus relating to such securities to each of his associated persons who is expected, prior to the effective date, to solicit customers’ orders for such securities before the making of any such solicitation by such associated persons, and (ii) to make available to each such associated person a copy of any amended preliminary prospectus promptly after the filing thereof.

(f) Such broker or dealer shall take reasonable steps to make available a copy of the final prospectus relating to such securities to each of his associated persons who is expected, after the effective date, to solicit customers orders for such securities prior to the making of any such solicitation by such associated persons, unless a preliminary prospectus which is substantially the same as the final prospectus except for matters relating to the price of the stock has been so made available.

(g) If the broker or dealer is a managing underwriter of such distribution, he shall take reasonable steps to see to it that all other brokers or dealers participating in such distribution are promptly furnished with sufficient copies, as requested by them, of each preliminary prospectus, each amended preliminary prospectus and the final prospectus to enable them to comply with paragraphs (b), (c), (d), and (e) of this chapter.

(h) If the broker or dealer is a managing underwriter of such distribution, he shall take reasonable steps to see that any broker or dealer participating in the distribution or trading in the registered security is furnished reasonable quantities of the final prospectus relating to such securities, as requested by him, in order to enable him to comply with the prospectus delivery requirements of Section 5(b)(1) and (2) of the Securities Act of 1933.

(i) This section shall not require the furnishing of prospectuses in any state where such furnishing would be unlawful under the laws of such state; Provided, however, that this provision is not to be construed to relieve a broker or dealer from complying with the requirements of Section 5(b)(1) and (2) of the Securities Act of 1933.

Rule 15c2-11. Initiation or Resumption of Quotations Without Specified Information.

Preliminary Note. Brokers and dealers may wish to refer to Securities Exchange Act Release No. 29094 (April 17, 1991), for a discussion of procedures for gathering and reviewing the information required by this rule and the requirement that a broker or dealer have a reasonable basis for believing that the information is accurate and obtained from reliable sources.

(a) As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for a broker or dealer to publish any quotation for a security or, directly or indirectly, to submit any such quotation for publication, in any quotation medium (as defined in this section) unless such broker or dealer has in its records the documents and information required by this paragraph (for purposes of this section, “paragraph (a) information”), and, based upon a review of the paragraph (a) information together with any other documents and information required by paragraph (b) of this section, has a reasonable basis under the circumstances for believing that the paragraph (a) information is accurate in all material respects, and that the sources of the paragraph (a) information are reliable. The information required pursuant to this paragraph is:

(1) A copy of the prospectus specified by Section 10(a) of the Securities Act of 1933 for an issuer that has filed a registration statement under the Securities Act of
1933, other than a registration statement on Form F-6, which became effective less than 90 calendar days prior to the day on which such broker or dealer publishes or submits the quotation to the quotation medium, Provided That such registration statement has not thereafter been the subject of a stop order which is still in effect when the quotation is published or submitted; or

(2) A copy of the offering circular provided for under Regulation A under the Securities Act of 1933 for an issuer that has filed a notification under Regulation A and was authorized to commence the offering less than 40 calendar days prior to the day on which such broker or dealer publishes or submits the quotation to the quotation medium, Provided That the offering circular provided for under Regulation A has not thereafter become the subject of a suspension order which is still in effect when the quotation is published or submitted; or

(3) A copy of the issuer’s most recent annual report filed pursuant to section 13 or 15(d) of the Act or pursuant to Regulation A ((§§ 230.251 through 230.263 of this chapter), or a copy of the annual statement referred to in section 12(g)(2)(G)(i) of the Act in the case of an issuer required to file reports pursuant to section 13 or 15(d) of the Act or an issuer of a security covered by section 12(g)(2)(B) or (G) of the Act, together with any semiannual, quarterly and current reports that have been filed under the provisions of the Act or Regulation A by the issuer after such annual report or annual statement; provided, however, that until such issuer has filed its first annual report pursuant to section 13 or 15(d) of the Act or pursuant to Regulation A, or annual statement referred to in section 12(g)(2)(G)(i) of the Act, the broker or dealer has in its records a copy of the prospectus specified by section 10(a) of the Securities Act of 1933 included in a registration statement filed by the issuer under the Securities Act of 1933, other than a registration statement on Form F-6, or a copy of the offering circular specified by Regulation A included in an offering statement filed by the issuer under Regulation A, that became effective or was qualified within the prior 16 months, or a copy of any registration statement filed by the issuer under section 12 of the Act that became effective within the prior 16 months, together with any semiannual, quarterly and current reports filed thereafter under section 13 or 15(d) of the Act or Regulation A; and provided further, that the broker or dealer has a reasonable basis under the circumstances for believing that the issuer is current in filing annual, semiannual, quarterly, and current reports filed pursuant to section 13 or 15(d) of the Act or Regulation A, or, in the case of an insurance company exempted from section 12(g) of the Act by reason of section 12(g)(2)(G) thereof, the annual statement referred to in section 12(g)(2)(G)(i) of the Act; or

(4) The information that, since the beginning of its last fiscal year, the issuer has published pursuant to § 240.12g3-2(b), and which the broker or dealer shall make reasonably available upon the request of a person expressing an interest in a proposed transaction in the issuer’s security with the broker or dealer, such as by providing the requesting person with appropriate instructions regarding how to obtain the information electronically; or

(5) The following information, which shall be reasonably current in relation to the day the quotation is submitted and which the broker or dealer shall make reasonably available upon request to any person expressing an interest in a proposed transaction in the security with such broker or dealer:

(i) The exact name of the issuer and its predecessor (if any);
(ii) The address of its principal executive offices;
(iii) The state of incorporation, if it is a corporation;
(iv) The exact title and class of the security;
(v) The par or stated value of the security;
(vi) The number of shares or total amount of the securities outstanding as of the end of the issuer’s most recent fiscal year;

(vii) The name and address of the transfer agent;

(viii) The nature of the issuer’s business;

(ix) The nature of products or services offered;

(x) The nature and extent of the issuer’s facilities;

(xi) The name of the chief executive officer and members of the board of directors;

(xii) The issuer’s most recent balance sheet and profit and loss and retained earnings statements;

(xiii) Similar financial information for such part of the 2 preceding fiscal years as the issuer or its predecessor has been in existence;

(xiv) Whether the broker or dealer or any associated person is affiliated, directly or indirectly with the issuer;

(xv) Whether the quotation is being published or submitted on behalf of any other broker or dealer, and, if so, the name of such broker or dealer; and

(xvi) Whether the quotation is being submitted or published directly or indirectly on behalf of the issuer, or any director, officer or any person, directly or indirectly the beneficial owner of more than 10 percent of the outstanding units or shares of any equity security of the issuer, and, if so, the name of such person, and the basis for any exemption under the federal securities laws for any sales of such securities on behalf of such person.

If such information is made available to others upon request pursuant to this paragraph, such delivery, unless otherwise represented, shall not constitute a representation by such broker or dealer that such information is accurate, but shall constitute a representation by such broker or dealer that the information is reasonably current in relation to the day the quotation is submitted, that the broker or dealer has a reasonable basis under the circumstances for believing the information is accurate in all material respects, and that the information was obtained from sources which the broker or dealer has a reasonable basis for believing are reliable. This paragraph (a)(5) shall not apply to any security of an issuer included in paragraph (a)(3) of this section unless a report or statement of such issuer described in paragraph (a)(3) of this section is not reasonably available to the broker or dealer. A report or statement of an issuer described in paragraph (a)(3) shall be “reasonably available” when such report or statement is filed with the Commission.

(b) With respect to any security the quotation of which is within the provisions of this section, the broker or dealer submitting or publishing such quotation shall have in its records the following documents and information:

(1) A record of the circumstances involved in the submission of publication of such quotation, including the identity of the person or persons for whom the quotation is being submitted or published and any information regarding the transactions provided to the broker or dealer by such person or persons;

(2) A copy of any trading suspension order issued by the Commission pursuant to Section 12(k) of the Act respecting any securities of the issuer or its predecessor (if any) during the 12 months preceding the date of the publication or submission of the quotation, or a copy of the public release issued by the Commission announcing such trading suspension order; and
(3) A copy or a written record of any other material information (including adverse information) regarding the issuer which comes to the broker’s or dealer’s knowledge or possession before the publication or submission of the quotation.

(c) The broker or dealer shall preserve the documents and information required under paragraphs (a) and (b) of this section for a period of not less than three years, the first two years in an easily accessible place.

(d)(1) For any security of an issuer included in paragraph (a)(5) of this section, the broker or dealer submitting the quotation shall furnish to the interdealer quotation system (as defined in paragraph (e)(2) of this section), in such form as such system shall prescribe, at least 3 business days before the quotation is published or submitted, the information regarding the security and the issuer which such broker or dealer is required to maintain pursuant to said paragraph (a)(5) of this section.

(2) For any security of an issuer included in paragraph (a)(3) of this section:

(i) A broker-dealer shall be in compliance with the requirement to obtain current reports filed by the issuer if the broker-dealer obtains all current reports filed with the Commission by the issuer as of a date up to five business days in advance of the earlier of the date of submission of the quotation to the quotation medium and the date of submission of the information in paragraph (a) of this section pursuant to the applicable rule of the Financial Industry Regulatory Authority, Inc. or its successor organization; and

(ii) A broker-dealer shall be in compliance with the requirement to obtain the annual, quarterly, and current reports filed by the issuer, if the broker-dealer has made arrangements to receive all such reports when filed by the issuer and it has regularly received reports from the issuer on a timely basis, unless the broker-dealer has a reasonable basis under the circumstances for believing that the issuer has failed to file a required report or has filed a report but has not sent it to the broker-dealer.

(e) For purposes of this section:

(1) Quotation medium shall mean any “interdealer quotation system” or any publication or electronic communications network or other device which is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.

(2) Interdealer quotation system shall mean any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers.

(3) Except as otherwise specified in this rule, quotation shall mean any bid or offer at a specified price with respect to a security, or any indication of interest by a broker or dealer in receiving bids or offers from others for a security, or any indication by a broker or dealer that he wishes to advertise his general interest in buying or selling a particular security.

(4) Issuer, in the case of quotations for American Depositary Receipts, shall mean the issuer of the deposited shares represented by such American Depositary Receipts.

(f) The provisions of this section shall not apply to:

(1) The publication or submission of a quotation respecting a security admitted to trading on a national securities exchange and which is traded on such an exchange on the same day as, or on the business day next preceding, the day the quotation is published or submitted.
(2) The publication or submission by a broker or dealer, solely on behalf of a customer (other than a person acting as or for a dealer), of a quotation that represents the customer’s indication of interest and does not involve the solicitation of the customer’s interest; Provided, however, That this paragraph (f)(2) shall not apply to a quotation consisting of both a bid and an offer, each of which is at a specified price, unless the quotation medium specifically identifies the quotation as representing such an unsolicited customer interest.

(3)(i) The publication or submission, in an interdealer quotation system that specifically identifies as such unsolicited customer indications of interest of the kind described in paragraph (f)(2) of this section, of a quotation respecting a security which has been the subject of quotations (exclusive of any identified customer interests) in such a system on each of at least 12 days within the previous 30 calendar days, with no more than 4 business days in succession without a quotation; or

(ii) The publication or submission, in an interdealer quotation system that does not so identify any such unsolicited customer indications of interest, of a quotation respecting a security which has been the subject of both bid and ask quotations at specified prices on each of at least 12 days within the previous 30 calendar days, with no more than 4 business days in succession without such a two-way quotation;

(iii) A dealer acting in the capacity of market maker, as defined in Section 3(a)(38) of the Act, that has published or submitted a quotation respecting a security in an interdealer quotation system and such quotation has qualified for an exception provided in this paragraph (f)(3), may continue to publish or submit quotations for such security in the interdealer quotation system without compliance with this rule unless and until such dealer ceases to submit or publish a quotation or ceases to act in the capacity of market maker respecting such security.

(4) The publication or submission of a quotation respecting a municipal security.

(5) The publication or submission of a quotation respecting a Nasdaq security (as defined in § 242.600 of this chapter), and such security’s listing is not suspended, terminated, or prohibited.

(g) The requirement in subparagraph (a)(5) of this section that the information with respect to the issuer be “reasonably current” will be presumed to be satisfied, unless the broker or dealer has information to the contrary, if:

(1) The balance sheet is as of a date less than 16 months before the publication or submission of the quotation, the statements of profit and loss and retained earnings are for the 12 months preceding the date of such balance sheet, and if such balance sheet is not as of a date less than six months before the publication or submission of the quotation, it shall be accompanied by additional statements of profit and loss and retained earnings for the period from the date of such balance sheet to a date less than 6 months before the publication or submission of the quotation.

(2) Other information regarding the issuer specified in subparagraph (a)(5) of this section is as of a date within 12 months prior to the publication or submission of the quotation.

(h) This section shall not prohibit any publication or submission of any quotation if the Commission, upon written request or upon its own motion, exempts such quotation either unconditionally or on specified terms and conditions, as not constituting a fraudulent, manipulative or deceptive practice comprehended within the purpose of this section.
Rule 15c2-12. Municipal Securities Disclosure.*


(a) General. As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer (a “Participating Underwriter” when used in connection with an Offering) to act as an underwriter in a primary offering of municipal securities with an aggregate principal amount of $1,000,000 or more (an “Offering”) unless the Participating Underwriter complies with the requirements of this section or is exempted from the provisions of this section.

(b) Requirements. (1) Prior to the time the Participating Underwriter bids for, purchases, offers, or sells municipal securities in an Offering, the Participating Underwriter shall obtain and review an official statement that an issuer of such securities deems final as of its date, except for the omission of no more than the following information: the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, any other terms or provisions required by an issuer of such securities to be specified in a competitive bid, ratings, other terms of the securities depending on such matters, and the identity of the underwriter(s).

(2) Except in competitively bid offerings, from the time the Participating Underwriter has reached an understanding with an issuer of municipal securities that it will become a Participating Underwriter in an Offering until a final official statement is available, the Participating Underwriter shall send no later than the next business day, by first-class mail or other equally prompt means, to any potential customer, on request, a single copy of the most recent preliminary official statement, if any.

(3) The Participating Underwriter shall contract with an issuer of municipal securities or its designated agent to receive, within seven business days after any final agreement to purchase, offer, or sell the municipal securities in an Offering and in sufficient time to accompany any confirmation that requests payment from any customer, copies of a final official statement in sufficient quantity to comply with paragraph (b)(4) of this rule and the rules of the Municipal Securities Rulemaking Board.

(4) From the time the final official statement becomes available until the earlier of—

(i) Ninety days from the end of the underwriting period or

(ii) The time when the official statement is available to any person from the Municipal Securities Rulemaking Board, but in no case less than twenty-five days

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*Effective October 30, 2018, Rule 15c2-12 is amended by revising paragraph (b)(5)(i)(C)(14), and adding paragraphs (b)(5)(i)(C)(15), (b)(5)(i)(C)(16), and (f)(11) as part of amendments to enhance transparency to the municipal securities market by increasing the amount of information that is publicly disclosed about material financial obligations incurred by issuers and obligated persons. See SEC Release No. 34-83885; August 20, 2018. Compliance Date: February 27, 2019.
following the end of the underwriting period, the Participating Underwriter in an Offering shall send no later than the next business day, by first-class mail or other equally prompt means, to any potential customer, on request, a single copy of the final official statement.

(5)(i) A Participating Underwriter shall not purchase or sell municipal securities in connection with an Offering unless the Participating Underwriter has reasonably determined that an issuer of municipal securities, or an obligated person for whom financial or operating data is presented in the final official statement has undertaken, either individually or in combination with other issuers of such municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such securities, to provide the following to the Municipal Securities Rulemaking Board in an electronic format as prescribed by the Municipal Securities Rulemaking Board, either directly or indirectly through an indenture trustee or a designated agent:

(A) Annual financial information for each obligated person for whom financial information or operating data is presented in the final official statement, or, for each obligated person meeting the objective criteria specified in the undertaking and used to select the obligated persons for whom financial information or operating data is presented in the final official statement, except that, in the case of pooled obligations, the undertaking shall specify such objective criteria;

(B) If not submitted as part of the annual financial information, then when and if available, audited financial statements for each obligated person covered by paragraph (b)(5)(i)(A) of this section;

(C) In a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the securities being offered in the Offering:

(1) Principal and interest payment delinquencies;

(2) Non-payment related defaults, if material;

(3) Unscheduled draws on debt service reserves reflecting financial difficulties;

(4) Unscheduled draws on credit enhancements reflecting financial difficulties;

(5) Substitution of credit or liquidity providers, or their failure to perform;

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;

(7) Modifications to rights of security holders, if material;

(8) Bond calls, if material, and tender offers;

(9) Defeasances;

(10) Release, substitution, or sale of property securing repayment of the securities, if material;

(11) Rating changes;

(12) Bankruptcy, insolvency, receivership or similar event of the obligated person;

Note to Paragraph (b)(5)(i)(C)(12): For the purposes of the event identified in paragraph (b)(5)(i)(C)(12) of this section, the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar
officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person;

(13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

*(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

**(15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and

***(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties; and

(D) In a timely manner, notice of a failure of any person specified in paragraph (b)(5)(i)(A) of this section to provide required annual financial information, on or before the date specified in the written agreement or contract.

(ii) The written agreement or contract for the benefit of holders of such securities also shall identify each person for whom annual financial information and notices of material events will be provided, either by name or by the objective criteria used to select such persons, and, for each such person shall:

(A) Specify, in reasonable detail, the type of financial information and operating data to be provided as part of annual financial information;

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*Effective October 30, 2018, Rule 15c2-12 is amended in paragraph (b)(5)(i)(C)(14) by removing the word “and” as part of amendments to enhance transparency to the municipal securities market by increasing the amount of information that is publicly disclosed about material financial obligations incurred by issuers and obligated persons. See SEC Release No. 34-83885; August 20, 2018. Compliance Date: February 27, 2019.

**Effective October 30, 2018, Rule 15c2-12 is amended by adding paragraph (b)(5)(i)(C)(15) as part of amendments to enhance transparency to the municipal securities market by increasing the amount of information that is publicly disclosed about material financial obligations incurred by issuers and obligated persons. See SEC Release No. 34-83885; August 20, 2018. Compliance Date: February 27, 2019.

***Effective October 30, 2018, Rule 15c2-12 is amended by adding paragraph (b)(5)(i)(C)(16) as part of amendments to enhance transparency to the municipal securities market by increasing the amount of information that is publicly disclosed about material financial obligations incurred by issuers and obligated persons. See SEC Release No. 34-83885; August 20, 2018. Compliance Date: February 27, 2019.
**Rule 15c2-12**

(B) Specify, in reasonable detail, the accounting principles pursuant to which financial statements will be prepared, and whether the financial statements will be audited; and

(C) Specify the date on which the annual financial information for the preceding fiscal year will be provided.

(iii) Such written agreement or contract for the benefit of holders of such securities also may provide that the continuing obligation to provide annual financial information and notices of events may be terminated with respect to any obligated person, if and when such obligated person no longer remains an obligated person with respect to such municipal securities.

(iv) Such written agreement or contract for the benefit of holders of such securities also shall provide that all documents provided to the Municipal Securities Rulemaking Board shall be accompanied by identifying information as prescribed by the Municipal Securities Rulemaking Board.

(c) **Recommendations.** As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer to recommend the purchase or sale of a municipal security unless such broker, dealer, or municipal securities dealer has procedures in place that provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of this section with respect to that security.

(d) **Exemptions.** (1) This section shall not apply to a primary offering of municipal securities in authorized denominations of $100,000 or more, if such securities:

(i) Are sold to no more than 35 persons each of whom the Participating Underwriter reasonably believes:

(A) Has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment; and

(B) Is not purchasing for more than one account or with a view to distributing the securities; or

(ii) Have a maturity of nine months or less.

(2) Paragraph (b)(5) of this section shall not apply to an Offering of municipal securities if, at such time as an issuer of such municipal securities delivers the securities to the Participating Underwriters:

(i) No obligated person will be an obligated person with respect to more than $10,000,000 in aggregate amount of outstanding municipal securities, including the offered securities and excluding municipal securities that were offered in a transaction exempt from this section pursuant to paragraph (d)(1) of this section;

(ii) An issuer of municipal securities or obligated person has undertaken, either individually or in combination with other issuers of municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such municipal securities, to provide the following to the Municipal Securities Rulemaking Board in an electronic format as prescribed by the Municipal Securities Rulemaking Board:

(A) At least annually, financial information or operating data regarding each obligated person for which information or operating data is presented in the final official statement, as specified in the undertaking, which financial information and operating data shall include, at a minimum, that financial information and operating data which is customarily prepared by such obligated person and is publicly available; and
(B) In a timely manner not in excess of ten business days after the occurrence of the event, notice of events specified in paragraph (b)(5)(i)(C) of this section with respect to the securities that are the subject of the Offering; and

(C) Such written agreement or contract for the benefit of holders of such securities also shall provide that all documents provided to the Municipal Securities Rulemaking Board shall be accompanied by identifying information as prescribed by the Municipal Securities Rulemaking Board; and

(iii) The final official statement identifies by name, address, and telephone number the persons from which the foregoing information, data, and notices can be obtained.

(3) The provisions of paragraph (b)(5) of this section, other than paragraph (b)(5)(i)(C) of this section, shall not apply to an Offering of municipal securities, if such municipal securities have a stated maturity of 18 months or less.

(4) The provisions of paragraph (c) of this section shall not apply to municipal securities:

(i) Sold in an Offering to which paragraph (b)(5) of this section did not apply, other than Offerings exempt under paragraph (d)(2)(ii) of this section; or

(ii) Sold in an Offering exempt from this section under paragraph (d)(1) of this section.

(5) With the exception of paragraphs (b)(1) through (b)(4), this section shall apply to a primary offering of municipal securities in authorized denominations of $100,000 or more if such securities may, at the option of the holder thereof, be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent; provided, however, that paragraphs (b)(5) and (c) of this section shall not apply to such securities outstanding on November 30, 2010 for so long as they continuously remain in authorized denominations of $100,000 or more and may, at the option of the holder thereof, be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent.

(e) Exemptive Authority. The Commission, upon written request, or upon its own motion, may exempt any broker, dealer, or municipal securities dealer, whether acting in the capacity of a Participating Underwriter or otherwise, that is a participant in a transaction or class of transactions from any requirement of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such an exemption is consistent with the public interest and the protection of investors.

(f) Definitions. For the purposes of this rule:

(1) The term authorized denominations of $100,000 or more means municipal securities with a principal amount of $100,000 or more and with restrictions that prevent the sale or transfer of such securities in principal amounts of less than $100,000 other than through a primary offering; except that, for municipal securities with an original issue discount of 10 percent or more, the term means municipal securities with a minimum purchase price of $100,000 or more and with restrictions that prevent the sale or transfer of such securities, in principal amounts that are less than the original principal amount at the time of the primary offering, other than through a primary offering.
(2) The term end of the underwriting period means the later of such time as:

(i) The issuer of municipal securities delivers the securities to the Participating Underwriters, or

(ii) The Participating Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the securities for sale to the public.

(3) The term final official statement means a document or set of documents prepared by an issuer of municipal securities or its representatives that is complete as of the date delivered to the Participating Underwriter(s) and that sets forth information concerning the terms of the proposed issue of securities; information, including financial information or operating data, concerning such issuers of municipal securities and those other entities, enterprises, funds, accounts, and other persons material to an evaluation of the Offering; and a description of the undertakings to be provided pursuant to paragraph (b)(5)(i), paragraph (d)(2)(ii), and paragraph (d)(2)(iii) of this section, if applicable, and of any instances in the previous five years in which each person specified pursuant to paragraph (b)(5)(ii) of this section failed to comply, in all material respects, with any previous undertakings in a written contract or agreement specified in paragraph (b)(5)(i) of this section. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents available to the public on the Municipal Securities Rulemaking Board’s Internet Web site or filed with the Commission.

(4) The term issuer of municipal securities means the governmental issuer specified in Section 3(a)(29) of the Act and the issuer of any separate security, including a separate security as defined in Rule 3b-5(a) under the Act.

(5) The term potential customer means: (i) Any person contacted by the Participating Underwriter concerning the purchase of municipal securities that are intended to be offered or have been sold in an offering, (ii) Any person who has expressed an interest to the Participating Underwriter in possibly purchasing such municipal securities, and (iii) Any person who has a customer account with the Participating Underwriter.

(6) The term preliminary official statement means an official statement prepared by or for an issuer of municipal securities for dissemination to potential customers prior to the availability of the final official statement.

(7) The term primary offering means an offering of municipal securities directly or indirectly by or on behalf of an issuer of such securities, including any remarketing of municipal securities:

(i) That is accompanied by a change in the authorized denomination of such securities from $100,000 or more to less than $100,000, or

(ii) That is accompanied by a change in the period during which such securities may be tendered to an issuer of such securities or its designated agent for redemption or purchase from a period of nine months or less to a period of more than nine months.

(8) The term underwriter means any person who has purchased from an issuer of municipal securities with a view to, or offers or sells for an issuer of municipal securities in connection with, the offering of any municipal security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; except, that such term shall not include a person whose interest is limited to a commission, concession, or allowance from an underwriter, broker, dealer, or municipal securities dealer not in excess of the usual and customary distributors’ or sellers’ commission, concession, or allowance.
(9) The term *annual financial information* means financial information or operating data, provided at least annually, of the type included in the final official statement with respect to an obligated person, or in the case where no financial information or operating data was provided in the final official statement with respect to such obligated person, of the type included in the final official statement with respect to those obligated persons that meet the objective criteria applied to select the persons for which financial information or operating data will be provided on an annual basis. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents available to the public on the Municipal Securities Rulemaking Board’s Internet Web site or filed with the Commission.

(10) The term *obligated person* means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the municipal securities to be sold in the Offering (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

*(11)(i) The term *financial obligation* means a:

(A) Debt obligation;

(B) Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or

(C) Guarantee of paragraph (f)(11)(i)(A) or (B).

(ii) The term *financial obligation* shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with this rule.

(g) **Transitional Provision.** If on July 28, 1989 a Participating Underwriter was contractually committed to act as underwriter in an Offering of municipal securities originally issued before July 29, 1989, the requirements of paragraphs (b)(3) and (b)(4) shall not apply to the Participating Underwriter in connection with such an Offering. Paragraph (b)(5) of this section shall not apply to a Participating Underwriter that has contractually committed to act as an underwriter in an Offering of municipal securities before July 3, 1995; except that paragraph (b)(5)(i)(A) and paragraph (b)(5)(i)(B) shall not apply with respect to fiscal years ending prior to January 1, 1996. Paragraph (c) shall become effective on January 1, 1996. Paragraph (d)(2)(ii) and paragraph (d)(2)(iii) of this section shall not apply to an Offering of municipal securities commencing prior to January 1, 1996.

**Rule 15c3-1. Net Capital Requirements For Brokers or Dealers.**

(a) Every broker or dealer must at all times have and maintain net capital no less than the greater of the highest minimum requirement applicable to its ratio requirement
under paragraph (a)(1) of this section, or to any of its activities under paragraph (a)(2) of this section, and must otherwise not be “insolvent” as that term is defined in paragraph (c)(16) of this section. In lieu of applying paragraphs (a)(1) and (a)(2) of this section, an OTC derivatives dealer shall maintain net capital pursuant to paragraph (a)(5) of this section. Each broker or dealer also shall comply with the supplemental requirements of paragraphs (a)(4) and (a)(9) of this section, to the extent either paragraph is applicable to its activities. In addition, a broker or dealer shall maintain net capital of not less than its own net capital requirement plus the sum of each broker’s or dealer’s subsidiary or affiliate minimum net capital requirements, which is consolidated pursuant to Appendix C, § 240.15c3-1c.

RATIO REQUIREMENTS.

Aggregate Indebtedness Standard.

(1)(i) No broker or dealer, other than one that elects the provisions of paragraph (a)(1)(ii) of this section, shall permit its aggregate indebtedness to all other persons to exceed 1,500 percent of its net capital (or 800 percent of its net capital for 12 months after commencing business as a broker or dealer).

Alternative Standard.

(ii) A broker or dealer may elect not to be subject to the Aggregate Indebtedness Standard of paragraph (a)(1)(i) of this section. That broker or dealer shall not permit its net capital to be less than the greater of $250,000 or 2 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements for Brokers and Dealers (Exhibit A to Rule 15c3-3, § 15c3-3a). Such broker or dealer shall notify its Examining Authority, in writing, of its election to operate under this paragraph (a)(1)(ii). Once a broker or dealer has notified its Examining Authority, it shall continue to operate under this paragraph unless a change is approved upon application to the Commission. A broker or dealer that elects this standard and is not exempt from Rule 15c3-3 shall:

(A) Make the computation required by § 240.15c3-3(e) and set forth in Exhibit A, § 240.15c3-3a, on a weekly basis and, in lieu of the 1 percent reduction of certain debit items required by Note E(3) in the computation of its Exhibit A requirement, reduce aggregate debit items in such computation by 3 percent;

(B) Include in Items 7 and 8 of Exhibit A, § 240.15c3-3a, the market value of items specified therein more than 7 business days old;

(C) Exclude credit balances in accounts representing amounts payable for securities not yet received from the issuer or its agent which securities are specified in paragraphs (c)(2)(vi)(A) and (E) of this section and any related debit items from the Exhibit A requirement for 3 business days; and

(D) Deduct from net worth in computing net capital one percent of the contract value of all failed to deliver contracts or securities borrowed that were allocated to failed to receive contracts of the same issue and which thereby were excluded from Item 11 or 12 of Exhibit A, § 240.15c3-3a.

security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
Futures Commission Merchants.

(iii) No broker or dealer registered as a futures commission merchant shall permit its net capital to be less than the greater of its requirement under paragraph (a)(1)(i) or (ii) of this section, or 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the customer’s account).

MINIMUM REQUIREMENTS.

See Appendix E (§ 240.15c3-1e) for temporary minimum requirements.

Brokers or Dealers that Carry Customer Accounts.

(2)(i) A broker or dealer (other than one described in paragraph (a)(2)(ii) or (a)(8) of this section) shall maintain net capital of not less than $250,000 if it carries customer or broker or dealer accounts and receives or holds funds or securities for those persons. A broker or dealer shall be deemed to receive funds, or to carry customer or broker or dealer accounts and to receive funds from those persons if, in connection with its activities as a broker or dealer, it receives checks, drafts, or other evidences of indebtedness made payable to itself or persons other than the requisite registered broker or dealer carrying the account of a customer, escrow agent, issuer, underwriter, sponsor, or other distributor of securities. A broker or dealer shall be deemed to hold securities for, or to carry customer or broker or dealer accounts, and hold securities of, those persons if it does not promptly forward or promptly deliver all of the securities of customers or of other brokers or dealers received by the firm in connection with its activities as a broker or dealer. A broker or dealer, without complying with this paragraph (a)(2)(i), may receive securities only if its activities conform with the provisions of paragraph (a)(2)(iv) or (v) of this section, and may receive funds only in connection with the activities described in paragraph (a)(2)(v) of this section.

(ii) A broker or dealer that is exempt from the provisions of § 240.15c3-3 pursuant to paragraph (k)(2)(i) thereof shall maintain net capital of not less than $100,000.

Dealers.

(iii) A dealer shall maintain net capital of not less than $100,000. For the purposes of this section, the term “dealer” includes:

(A) Any broker or dealer that endorses or writes options otherwise than on a registered national securities exchange or a facility of a registered national securities association; and

(B) Any broker or dealer that effects more than 10 transactions in any one calendar year for its own investment account. This section shall not apply to those persons engaging in activities described in paragraph (a)(2)(v), (a)(2)(vi) or (a)(8) of this section, or to those persons whose underwriting activities are limited solely to acting as underwriters in best efforts or all or none underwritings in conformity with paragraph (b)(2) of § 240.15c2-4, so long as those persons engage in no other dealer activities.

Brokers or Dealers that Introduce Customer Accounts and Receive Securities.

(iv) A broker or dealer shall maintain net capital of not less than $50,000 if it introduces transactions and accounts of customers or other brokers or dealers to another registered broker or dealer that carries such accounts on a fully disclosed basis, and if the broker or dealer receives but does not hold customer or other broker or dealer securities. A broker or dealer operating under this paragraph (a)(2)(iv) of this section may participate in a firm commitment underwriting without being subject to the pro-
visions of paragraph (a)(2)(iii) of this section, but may not enter into a commitment for the purchase of shares related to that underwriting.

**Brokers or Dealers Engaged in the Sale of Redeemable Shares of Registered Investment Companies and Certain Other Share Accounts.**

(v) A broker or dealer shall maintain net capital of not less than $25,000 if it acts as a broker or dealer with respect to the purchase, sale and redemption of redeemable shares of registered investment companies or of interests or participations in an insurance company separate account directly from or to the issuer on other than a subscription way basis. A broker or dealer operating under this section may sell securities for the account of a customer to obtain funds for the immediate reinvestment in redeemable securities of registered investment companies. A broker or dealer operating under this paragraph (a)(2)(v) must promptly transmit all funds and promptly deliver all securities received in connection with its activities as a broker or dealer, and may not otherwise hold funds or securities for, or owe money or securities to, customers.

**Other Brokers or Dealers.**

(vi) A broker or dealer that does not receive, directly or indirectly, or hold funds or securities for, or owe funds or securities to, customers and does not carry accounts of, or for, customers and does not engage in any of the activities described in paragraphs (a)(2)(i) through (v) of this section shall maintain net capital of not less than $5,000. A broker or dealer operating under this paragraph may engage in the following dealer activities without being subject to the requirements of paragraph (a)(2)(iii) of this section:

(A) In the case of a buy order, prior to executing such customer’s order, it purchases as principal the same number of shares or purchases shares to accumulate the number of shares necessary to complete the order, which shall be cleared through another registered broker or dealer; or

(B) In the case of a sell order, prior to executing such customer’s order, it sells as principal the same number of shares or a portion thereof, which shall be cleared through another registered broker or dealer.

(3) [Reserved.]

**Capital Requirements For Market Makers.**

(4) A broker or dealer engaged in activities as a market maker as defined in paragraph (c)(8) of this section shall maintain net capital in an amount not less than $2,500 for each security in which it makes a market (unless a security in which it makes a market has a market value of $5 or less, in which event the amount of net capital shall be not less than $1,000 for each such security) based on the average number of such markets made by such broker or dealer during the 30 days immediately preceding the computation date. Under no circumstances shall it have net capital less than that required by the provisions of paragraph (a) of this section, or be required to maintain net capital of more than $1,000,000 unless required by paragraph (a) of this section.

*(5) [(i)] In accordance with Appendix F to this section (§ 240.15c3-1f), the Commission may grant an application by an OTC derivatives dealer when calculating

*Effective September __, 2019, Rule 15c3-1 is amended by re-designating paragraph (a)(5) as paragraph (a)(5)(i) and adding new paragraph (a)(5)(ii) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs*
net capital to use the market risk standards of Appendix F as to some or all of its positions in lieu of the provisions of paragraph (c)(2)(vi) of this section and the credit risk standards of Appendix F to its receivables (including counterparty net exposure) arising from transactions in eligible OTC derivative instruments in lieu of the requirements of paragraph (c)(2)(iv) of this section. An OTC derivatives dealer shall at all times maintain tentative net capital of not less than $100 million and net capital of not less than $20 million.

*(ii) An OTC derivatives dealer that is also registered as a security-based swap dealer under section 15F of the Act (15 U.S.C. 78o-10) is subject to the capital requirements in § 240.18a-1 and its appendices instead of the capital requirements of this section and its appendices.

Market Makers, Specialists and Certain Other Dealers.

(6)(i) A dealer who meets the conditions of paragraph (a)(6)(ii) of this section may elect to operate under this paragraph (a)(6) and thereby not apply, except to the extent required by this paragraph (a)(6), the provisions of paragraph (c)(2)(vi) or Appendix A (§ 240.15c3-1a) of this section to market maker and specialist transactions and, in lieu thereof, apply thereto the provisions of paragraph (a)(6)(iii) of this section.

(ii) This paragraph (a)(6) shall be available to a dealer who does not effect transactions with other than brokers or dealers, who does not carry customer accounts, who does not effect transactions in options not listed on a registered national securities exchange or facility of a registered national securities association, and whose market maker or specialist transactions are effected through and carried in a market maker or specialist account cleared by another broker or dealer as provided in paragraph (a)(6)(iv) of this section.

(iii) A dealer who elects to operate pursuant to this paragraph (a)(6) shall at all times maintain a liquidating equity in respect of securities positions in his market maker or specialist account at least equal to:

(A) An amount equal to 25 percent (5 percent in the case of exempted securities) of the market value of the long positions and 30 percent of the market value of the short positions; provided, however, in the case of long or short positions in options and long or short positions in securities other than options which relate to a bona fide hedged position as defined in paragraph (c)(2)(x)(C) of this section, such amount shall equal the deductions in respect of such positions specified by Appendix A (§ 240.15c3-1a).

(B) Such lesser requirement as may be approved by the Commissioner under specified terms and conditions upon written application of the dealer and the carrying broker or dealer.
(C) For purposes of this paragraph (a)(6)(iii), equity in such specialist or market maker account shall be computed by: (1) marking all securities positions long or short in the account to their respective current market values, (2) adding (deducting in the case of a debit balance) the credit balance carried in such specialist or market maker account, and (3) adding (deducting in the case of short positions) the market value of positions long in such account.

(iv) The dealer shall obtain from the broker or dealer carrying the market maker or specialist account a written undertaking which shall be designated “Notice Pursuant to § 240.15c3-1(a)(6) of Intention to Carry Specialist or Market Maker Account.” Said undertaking shall contain the representations required by this paragraph (a)(6) of this section and shall be filed with the Commission’s Washington, DC Office, the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and the Designated Examining Authorities of both firms prior to effecting any transactions in said account. The broker or dealer carrying such account:

(A) Shall mark the account to the market not less than daily and shall issue appropriate calls for additional equity which shall be met by noon of the following business day;

(B) Shall notify by telegraph the Commission and the Designated Examining Authorities pursuant to 17 CFR 240.17a-11 if the market maker or specialist fails to deposit any required equity within the time prescribed in paragraph (a)(6)(iv)(A) of this section; said telegraphic notice shall be received by the Commission and the Designated Examining Authorities not later than the close of business on the day said call is not met;

(C) Shall not extend further credit in the account if the equity in the account falls below that prescribed in paragraph (a)(6)(iii) of this section; and

(D) Shall take steps to liquidate promptly existing positions in the account in the event of a failure to meet a call for equity.

(v) No such carrying broker or dealer shall permit the sum of: (A) the deductions required by paragraph (c)(2)(x)(A) of this section in respect of all transactions in market maker accounts guaranteed, endorsed or carried by such broker or dealer pursuant to paragraph (c)(2)(x) of this section, and (B) the equity required by paragraph (iii) of this paragraph (a)(6) in respect of all transactions in the accounts of specialists or market makers in options carried by such broker or dealer pursuant to this paragraph (a)(6) to exceed 1,000 percent of such broker’s or dealer’s net capital as defined in paragraph (c)(2) of this section for any period exceeding five business days; Provided, That solely for purposes of this paragraph (a)(6)(v), deductions or equity required in a specialist or market maker account in respect of positions in fully paid securities (other than options), which do not underlie options listed on the national securities exchange or facility of a national securities association of which the specialist or market maker is a member, need not be recognized. Provided further, That if at any time such sum exceeds 1,000 percent of such broker’s or dealer’s net capital, then the broker or dealer shall immediately transmit telegraphic notice of such event to the principal office of the Commission in Washington, DC, the regional office of the Commission for the region in which the broker or dealer maintains its principal place of business, and the broker’s or dealer’s Designated Examining Authority. Provided further, That if at any time such sum exceeds 1,000 percent of such broker’s or dealer’s net capital, then such broker or dealer shall be subject to the prohibitions against withdrawal of equity capital set forth in paragraph (e) of this section, and to the prohibitions against reduction, prepayment and repayment of subordination agreements set forth in paragraph (b)(11) of § 240.15c3-1d, as if such broker or dealer’s net capital were below the minimum standards specified by each of the aforementioned paragraphs.
*Alternative Net Capital Computation For Broker-Dealers that Elect to Be Supervised on a Consolidated Basis.

*(7) In accordance with Appendix E to this section (§ 240.15c3-1e), the Commission may approve, in whole or in part, an application or an amendment to an application by a broker or dealer to calculate net capital using the market risk standards of Appendix E to compute a deduction for market risk on some or all of its positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of this section, and using the credit risk standards of Appendix E to compute a deduction for credit risk on certain credit exposures arising from transactions in derivatives instruments, instead of the provisions of paragraph (c)(2)(iv) of this section, subject to any conditions or limitations on the broker or dealer the Commission may require as necessary or appropriate in the public interest or for the protection of investors. A broker or dealer that has been approved to calculate its net capital under Appendix E must:

*Alternative Net Capital Computation For Broker-Dealers Authorized to Use Models

*(7) In accordance with Appendix E to this section (§ 240.15c3-1e), the Commission may approve, in whole or in part, an application or an amendment to an application by a broker or dealer to calculate net capital using the market risk standards of Appendix E to compute a deduction for market risk on some or all of its positions, instead of the provisions of paragraphs (c)(2)(vi) and (c)(2)(vii) of this section, and § 240.15c3-1b, and using the credit risk standards of Appendix E to compute a deduction for credit risk on certain credit exposures arising from transactions in derivatives instruments, instead of the provisions of paragraphs (c)(2)(iv), (c)(2)(xv)(A), and (c)(2)(xv)(B) of this section, subject to any conditions or limitations on the broker or dealer the Commission may require as necessary or appropriate in the public interest or for the protection of investors. A broker or dealer that has been approved to calculate its net capital under Appendix E must:

**(i) At all times maintain tentative net capital of not less than $1 billion and net capital of not less than $500 million;

**(i)(A) At all times maintain tentative net capital of not less than $5 billion and net capital of not less than the greater of $1 billion or the sum of the ratio requirement under paragraph (a)(1) of this section and:

*Effective September __, 2019, Rule 15c3-1 is amended by revising the title of paragraph (a)(7) and paragraph (a)(7) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of the title of paragraph (a)(7) and paragraph (a)(7) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1 is amended by revising paragraph (a)(7)(i) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (a)(7)(i) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(1) Two percent of the risk margin amount; or

(2) Four percent or less of the risk margin amount if the Commission issues an order raising the requirement to four percent or less on or after the third anniversary of this section’s compliance date; or

(3) Eight percent or less of the risk margin amount if the Commission issues an order raising the requirement to eight percent or less on or after the fifth anniversary of this section’s compliance date and the Commission had previously issued an order raising the requirement under paragraph (a)(7)(i)(B) of this section;

(B) If, after considering the capital and leverage levels of brokers or dealers subject to paragraph (a)(7) of this section, as well as the risks of their security-based swap positions, the Commission determines that it may be appropriate to change the percentage pursuant to paragraph (a)(7)(i)(A)(2) or (3) of this section, the Commission will publish a notice of the potential change and subsequently will issue an order regarding any such change.

*(ii) Provide notice that same day in accordance with § 240.17a-11(g) if the broker’s or dealer’s tentative net capital is less than $5 billion. The Commission may, upon written application, lower the threshold at which notification is necessary under this paragraph (a)(7)(ii), either unconditionally or on specified terms and conditions, if a broker or dealer satisfies the Commission that notification at the $5 billion threshold is unnecessary because of, among other factors, the special nature of its business, its financial position, its internal risk management system, or its compliance history; and

*(ii) Provide notice that same day in accordance with § 240.17a-11(g) if the broker’s or dealer’s tentative net capital is less than $6 billion. The Commission may, upon written application, lower the threshold at which notification is necessary under this paragraph (a)(7)(ii), either unconditionally or on specified terms and conditions, if a broker or dealer satisfies the Commission that notification at the $6 billion threshold is unnecessary because of, among other factors, the special nature of its business, its financial position, its internal risk management system, or its compliance history; and

(iii) Comply with § 240.15c3-4 as though it were an OTC derivatives dealer with respect to all of its business activities, except that paragraphs (c)(5)(xiii), (c)(5)(xiv), (d)(8), and (d)(9) of § 240.15c3-4 shall not apply.

Municipal Securities Brokers’ Brokers.

(8)(i) A municipal securities brokers’ broker, as defined in subsection (ii) of this paragraph (a)(8), may elect not to be subject to the limitations of paragraph (c)(2)(ix) of this section provided that such brokers’ broker complies with the requirements set out in (a)(8)(iii), (iv) and (v) of this section.

(ii) The term municipal securities brokers’ broker shall mean a municipal securities broker or dealer who acts exclusively as an undisclosed agent in the purchase or sale of municipal securities for a registered broker or dealer or registered municipal securities

*Effective September __, 2019, Rule 15c3-1 is amended by revising paragraph (a)(7)(ii) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (a)(7)(ii) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
dealer, who has no “customers” as defined in this rule and who does not have or maintain any municipal securities in its proprietary or other accounts.

(iii) In order to qualify to operate under this paragraph (a)(8), a brokers’ broker shall at all times have and maintain net capital of not less than $150,000.

(iv) For purposes of this paragraph (a)(8), a brokers’ broker shall deduct from net worth 1% of the contract value of each municipal failed to deliver contract which is outstanding 21 business days or longer. Such deduction shall be increased by any excess of the contract price of the fail to deliver over the market value of the underlying security.

(v) For purposes of this paragraph (a)(8), a brokers’ broker may exclude from its aggregate indebtedness computation indebtedness adequately collateralized by municipal securities outstanding for not more than one business day and offset by municipal securities failed to deliver of the same issue and quantity. In no event may a brokers’ broker exclude any overnight bank loan attributable to the same municipal securities failed to deliver contract for more than one business day. A brokers’ broker need not deduct from net worth the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of those failed to receive as required by Rule 15c3-1(c)(2)(iv)(E).

**Certain Additional Capital Requirements For Brokers or Dealers Engaging in Reverse Repurchase Agreements.**

(9) A broker or dealer shall maintain net capital in addition to the amounts required under paragraph (a) of this section in an amount equal to 10 percent of:

(i) The excess of the market value of United States Treasury Bills, Bonds and Notes subject to reverse repurchase agreements with any one party over 105 percent of the contract prices (including accrued interest) for reverse repurchase agreements with that party;

(ii) The excess of the market value of securities issued or guaranteed as to principal or interest by an agency of the United States or mortgage related securities as defined in Section 3(a)(41) of the Act subject to reverse repurchase agreements with any one party over 110 percent of the contract prices (including accrued interest) for reverse repurchase agreements with that person;

(iii) The excess of the market value of other securities subject to reverse repurchase agreements with any one party over 120 percent of the contract prices (including accrued interest) for reverse repurchase agreements with that person.

**(Broker-Dealers Registered as Security-Based Swap Dealers**

*(10) A broker or dealer registered with the Commission as a security-based swap dealer, other than a broker or dealer subject to the provisions of paragraph (a)(7) of this section, must:

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*Effective September __, 2019, Rule 15c3-1 is amended by adding new paragraph (a)(10) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.*
(i)(A) At all times maintain net capital of not less than the greater of $20 million or the sum of the ratio requirement under paragraph (a)(1) of this section and:

1) Two percent of the risk margin amount; or

2) Four percent or less of the risk margin amount if the Commission issues an order raising the requirement to four percent or less on or after the third anniversary of this section’s compliance date; or

3) Eight percent or less of the risk margin amount if the Commission issues an order raising the requirement to eight percent or less on or after the fifth anniversary of this section’s compliance date and the Commission had previously issued an order raising the requirement under paragraph (a)(10)(i)(B) of this section;

(B) If, after considering the capital and leverage levels of brokers or dealers subject to paragraph (a)(10) of this section, as well as the risks of their security-based swap positions, the Commission determines that it may be appropriate to change the percentage pursuant to paragraph (a)(10)(i)(A)(2) or (3) of this section, the Commission will publish a notice of the potential change and subsequently will issue an order regarding any such change; and

(ii) Comply with § 240.15c3-4 as though it were an OTC derivatives dealer with respect to all of its business activities, except that paragraphs (c)(5)(xiii), (c)(5)(xiv), (d)(8), and (d)(9) of § 240.15c3-4 shall not apply.

(b) Exemptions.

(1) The provisions of this section shall not apply to any specialist:

(i) Whose securities business, except for an occasional non-specialist related securities transaction for its own account, is limited to that of acting as an options market maker on a national securities exchange;

(ii) That is a member in good standing and subject to the capital requirements of a national securities exchange;

(iii) That does not transact a business in securities with other than a broker or dealer registered with the Commission under Section 15 or Section 15C of the Act or a member of a national securities exchange; and

(iv) That is not a clearing member of The Options Clearing Corporation and whose securities transactions are effected through and carried in an account cleared by another broker or dealer registered with the Commission under Section 15 of the Act.

(2) A member in good standing of a national securities exchange who acts as a floor broker (and whose activities do not require compliance with other provisions of this rule) may elect to comply, in lieu of the other provisions of this section, with the following financial responsibility standard: the value of the exchange membership of the member (based on the lesser of the most recent sale price or current bid price for an exchange membership) is not less than $15,000, or an amount equal to the excess of $15,000 over the value of the exchange membership is held by an independent agent in escrow; provided that the rules of such exchange require that the proceeds from the sale of the exchange membership of the member and the amount held in escrow pursuant to this paragraph shall be subject to the prior claims of the exchange and its clearing corporation and those arising directly from the closing out of contracts entered into on the floor of such exchanges.

(3) The Commission may, upon written application, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any broker or dealer who satisfies the Commission that, because of the special nature of its business, its
financial position, and the safeguards it has established for the protection of customers’ funds and securities, it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

(c) Definitions. For the purpose of this section:

Aggregate Indebtedness.

(1) The term aggregate indebtedness shall be deemed to mean the total money liabilities of a broker or dealer arising in connection with any transaction whatsoever, and includes, among other things, money borrowed, money payable against securities loaned and securities “failed to receive,” the market value of securities borrowed to the extent to which no equivalent value is paid or credited (other than the market value of margin securities borrowed from customers in accordance with the provisions of 17 CFR 240.15c3-3 and margin securities borrowed from non-customers), customers’ and non-customers’ free credit balances, credit balances in customers’ and non-customers’ accounts having short positions in securities, equities in customers’ and non-customers’ future commodities accounts and credit balances in customers’ and non-customers’ commodities accounts, but excluding:

Exclusions From Aggregate Indebtedness.

(i) Indebtedness adequately collateralized by securities which are carried long by the broker or dealer and which have not been sold or by securities which collateralize a secured demand note pursuant to Appendix D to this section 17 CFR 240.15c3-1d; indebtedness adequately collateralized by spot commodities which are carried long by the broker or dealer and which have not been sold; or, until October 1, 1976, indebtedness adequately collateralized by municipal securities outstanding for not more than one business day and offset by municipal securities failed to deliver of the same issue and quantity, where such indebtedness is incurred by a broker or dealer effecting transactions solely in municipal securities who is either registered with the Commission or temporarily exempt from such registration pursuant to 17 CFR 240.15a-1(T) or 17 CFR 240.15Ba2-3(T);

(ii) Amounts payable against securities loaned, which securities are carried long by the broker or dealer and which have not been sold or which securities collateralize a secured demand note pursuant to Appendix D;

(iii) Amounts payable against securities failed to receive which securities are carried long by the broker or dealer and which have not been sold or which securities collateralize a secured demand note pursuant to Appendix D (17 CFR 240.15c3-1d), or amounts payable against securities failed to receive for which the broker or dealer also has a receivable related to securities of the same issue and quantity thereof which are either fails to deliver or securities borrowed by the broker or dealer;

(iv) Credit balances in accounts representing amounts payable for securities or money market instruments not yet received from the issuer or its agent which securities are specified in paragraph (c)(2)(vi)(E) and which amounts are outstanding in such accounts not more than three business days;

(v) Equities in customers’ and non-customers’ accounts segregated in accordance with the provisions of the Commodity Exchange Act and the rules and regulations thereunder;

(vi) Liability reserves established and maintained for refunds of charges required by Section 27(d) of the Investment Company Act of 1940, but only to the extent of amounts on deposit in a segregated trust account in accordance with 17 CFR 270.27d-1 under the Investment Company Act of 1940;
(vii) Amounts payable to the extent funds and qualified securities are required to be on deposit and are deposited in a “Special Reserve Bank Account for the Exclusive Benefit of Customers” pursuant to 17 CFR 240.15c3-3 under the Securities Exchange Act of 1934;

(viii) Fixed liabilities adequately secured by assets acquired for use in the ordinary course of the trade or business of a broker or dealer but no other fixed liabilities secured by assets of the broker or dealer shall be so excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(ix) Liabilities on open contractual commitments;

(x) Indebtedness subordinated to the claims of creditors pursuant to a satisfactory subordination agreement, as defined in Appendix D (17 CFR 240.15c3-1d);

(xi) Liabilities which are effectively subordinated to the claims of creditors (but which are not subject to a satisfactory subordination agreement as defined in Appendix D (17 CFR 240.15c3-1d)), by non-customers of the broker or dealer prior to such subordination, except such subordinations by customers as may be approved by the Examining Authority for such broker or dealer;

(xii) Credit balances in accounts of general partners;

(xiii) Deferred tax liabilities;

(xiv) Eighty-five percent of amounts payable to a registered investment company related to fail to deliver receivables of the same quantity arising out of purchases of shares of those registered investment companies; and

(xv) Eighty-five percent of amounts payable against securities loaned for which the broker or dealer has receivables related to securities of the same class and issue and quantity that are securities borrowed by the broker or dealer.

Net Capital.

(2) The term net capital shall be deemed to mean the net worth of a broker or dealer, adjusted by:

Adjustments to Net Worth Related to Unrealized Profit or Loss, Deferred Tax Provisions, and Certain Liabilities.

(i)(A) Adding unrealized profits (or deducting unrealized losses) in the accounts of the broker or dealer.

(B)(1) In determining net worth, all long and all short positions in listed options shall be marked to their market value and all long and all short securities and commodities positions shall be marked to their market value.

(2) In determining net worth, the value attributed to any unlisted option shall be the difference between the option’s exercise value and the market value of the underlying security. In the case of an unlisted call, if the market value of the underlying security is less than the exercise value of such call it shall be given no value and in the case of an unlisted put if the market value of the underlying security is more than the exercise value of the unlisted put it shall be given no value.

(C) Adding to net worth the lesser of any deferred income tax liability related to the items in (1), (2), and (3) below, or the sum of (1), (2), and (3) below:
The aggregate amount resulting from applying to the amount of the deductions computed in accordance with paragraph (c)(2)(vi) of this section and Appendices A and B, §240.15c3-1a and 240.15c3-1b, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;

Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section;

Any deferred tax liability related to unrealized appreciation in value of any asset(s) which has been otherwise deducted from net worth in accordance with the provisions of this section; and

Adding, in the case of future income tax benefits arising as a result of unrealized losses, the amount of such benefits not to exceed the amount of income tax liabilities accrued on the books and records of the broker and dealer, but only to the extent such benefits could have been applied to reduce accrued tax liabilities on the date of the capital computation, had the related unrealized losses been realized on that date.

Adding to net worth any actual tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section.

Subtracting from net worth any liability or expense relating to the business of the broker or dealer for which a third party has assumed the responsibility, unless the broker or dealer can demonstrate that the third party has adequate resources independent of the broker or dealer to pay the liability or expense.

Subtracting from net worth any contribution of capital to the broker or dealer:

Under an agreement that provides the investor with the option to withdraw the capital; or

That is intended to be withdrawn within a period of one year of contribution. Any withdrawal of capital made within one year of its contribution is deemed to have been intended to be withdrawn within a period of one year, unless the withdrawal has been approved in writing by the Examining Authority for the broker or dealer.

Subordinated Liabilities.

Excluding liabilities of the broker or dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement, as defined in Appendix D (17 CFR 240.15c3-1d).

Sole Proprietors.

Deducting, in the case of a broker or dealer who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a broker or dealer over assets not used in the business.

Assets Not Readily Convertible Into Cash.

Deducting fixed assets and assets which cannot be readily converted into cash (less any indebtedness excluded in accordance with subdivision (c)(1)(viii) of this section) including, among other things:

Fixed Assets and Prepaid Items.

Real estate; furniture and fixtures; exchange memberships; prepaid rent, insurance and other expenses; goodwill, organization expenses;
**Certain Unsecured and Partly Secured Receivables.**

(B) All unsecured advances and loans; deficits in customers’ and non-customers’ unsecured and partly secured notes; deficits in omnibus credit accounts maintained in compliance with the requirements of 12 CFR 220.7(f) of Regulation T under the Act, or similar accounts carried on behalf of another broker or dealer, after application of calls for margin, marks to the market or other required deposits that are outstanding 5 business days or less; deficits in customers’ and non-customers’ unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits that are outstanding 5 business days or less, except deficits in cash accounts as defined in 12 CFR 220.8 of Regulation T under the Act for which not more than one extension respecting a specified securities transaction has been requested and granted, and deducting for securities carried in any of such accounts the percentages specified in paragraph (c)(2)(vi) of this section or Appendix A, § 240.15c3-1a; the market value of stock loaned in excess of the value of any collateral received therefor; receivables arising out of free shipments of securities (other than mutual fund redemptions) in excess of $5,000 per shipment and all free shipments (other than mutual fund redemptions) outstanding more than 7 business days, and mutual fund redemptions outstanding more than 16 business days; and any collateral deficiencies in secured demand notes as defined in Appendix D, § 240.15c3-1d; a broker or dealer that participates in a loan of securities by one party to another party will be deemed a principal for the purpose of the deductions required under this section, unless the broker or dealer has fully disclosed the identity of each party to the other and each party has expressly agreed in writing that the obligations of the broker or dealer do not include a guarantee of performance by the other party and that such party’s remedies in the event of a default by the other party do not include a right of setoff against obligations, if any, of the broker or dealer.

**Certain Receivables.**

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in subparagraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with a non-municipal securities underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than sixty (60) days from settlement of the underwriting with the issuer; and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than sixty (60) days from settlement of the underwriting with the issuer; and receivables due from participation in municipal securities secondary trading joint accounts, which are outstanding longer than sixty (60) days from the date all securities have been delivered by the account manager to the account members;

**Insurance Claims.**

(D) Insurance claims which, after seven (7) business days from the date the loss giving rise to the claim is discovered, are not covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which after twenty (20) business days from that date the loss giving rise to the claim is discovered and which are accompanied by an opinion of outside counsel described above, have not been acknowledged in writing by the insurance carrier as due and payable; and insurance claims acknowledged in writing by the carrier as due and payable outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier; and
*Other Deductions.*

*(E) All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive; and the funds on deposit in a “segregated trust account” in accordance with 17 CFR 270.27d-1 under the Investment Company Act of 1940, but only to the extent that the amount on deposit in such segregated trust account exceeds the amount of liability reserves established and maintained for refunds of charges required by sections 27(d) and 27(f) of the Investment Company Act of 1940; *Provided,* That the following need not be deducted:

1. Any amounts deposited in a Customer Reserve Bank Account or PAB Reserve Bank Account pursuant to § 240.15c3-3(e),
2. Cash and securities held in a securities account at a carrying broker or dealer (except where the account has been subordinated to the claims of creditors of the carrying broker or dealer), and
3. Clearing deposits.

*(E) Other Deductions. All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive; and the funds on deposit in a “segregated trust account” in accordance with 17 CFR 270.27d-1 under the Investment Company Act of 1940, but only to the extent that the amount on deposit in such segregated trust account exceeds the amount of liability reserves established and maintained for refunds of charges required by sections 27(d) and 27(f) of the Investment Company Act of 1940; *Provided,* That the following need not be deducted:

1. Any amounts deposited in a Customer Reserve Bank Account or PAB Reserve Bank Account pursuant to § 240.15c3-3(e) or in the “special reserve account for the exclusive benefit of security-based swap customers” established pursuant to § 240.15c3-3(p)(3),
2. Cash and securities held in a securities account at a carrying broker or dealer (except where the account has been subordinated to the claims of creditors of the carrying broker or dealer), and
3. Clearing deposits.

*(F)(I) For purposes of this paragraph:

1. The term *reverse repurchase agreement deficit* shall mean the difference between the contract price for resale of the securities under a reverse repurchase agreement and the market value of those securities (if less than the contract price).

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*Effective September __, 2019, Rule 15c3-1 is amended by revising paragraph (c)(2)(iv)(E) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (c)(2)(iv)(E) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. *Compliance Date:* The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.*
(ii) The term *repurchase agreement deficit* shall mean the difference between the market value of securities subject to the repurchase agreement and the contract price for repurchase of the securities (if less than the market value of the securities).

(iii) As used in paragraph (c)(2)(iv)(F)(1) of this section, the term *contract price* shall include accrued interest.

(iv) Reverse repurchase agreement deficits and the repurchase agreement deficits where the counterparty is the Federal Reserve Bank of New York shall be disregarded.

(2)(i) In the case of a reverse repurchase agreement, the deduction shall be equal to the reverse repurchase agreement deficit.

(ii) In determining the required deductions under paragraph (c)(2)(iv)(F)(2)(i) of this section, the broker or dealer may reduce the reverse repurchase agreement deficit by:

(A) Any margin or other deposits held by the broker or dealer on account of the repurchase agreement;

(B) Any excess market value of the securities over the contract price for resale of those securities under any other reverse repurchase agreement with the same party;

(C) The difference between the contract price for resale and the market value of securities subject to repurchase agreements with the same party (if the market value of those securities is less than the contract price); and

(D) Calls for margin, marks to the market, or other required deposits which are outstanding one business day or less.

(3)(i) In the case of repurchase agreements, the deduction shall be:

(A) The excess of the repurchase agreement deficit over 5 percent of the contract price for resale of United States Treasury Bills, Notes and Bonds, 10 percent of the contract price for the resale of securities issued or guaranteed as to principal or interest by an agency of the United States or mortgage related securities as defined in Section 3(a)(41) of the Act and 20 percent of the contract price for the resale of other securities, and

(B) The excess of the aggregate repurchase agreement deficits with any one party over 25 percent of the broker or dealer's net capital before the application of paragraph (c)(2)(vi) of this section (less any deduction taken with respect to repurchase agreements with that party under paragraph (c)(2)(iv)(F)(3)(i)(A) of this section) or, if greater;

(C) The excess of the aggregate repurchase agreement deficits over 300 percent of the broker or dealer's net capital before the application of paragraph (c)(2)(vi) of this section.

(ii) In determining the required deduction under paragraph (c)(2)(iv)(F)(3)(i) of this section, the broker or dealer may reduce a repurchase agreement deficit by:

(A) Any margin or other deposits held by the broker or dealer on account of a reverse repurchase agreement with the same party to the extent not otherwise used to reduce a reverse repurchase deficit;

(B) The difference between the contract price and the market value of securities subject to other repurchase agreements with the same party (if the market value of those securities is less than the contract price) not otherwise used to reduce a reverse repurchase agreement deficit; and
(C) Calls for margin, marks to the market, or other required deposits which are outstanding one business day or less to the extent not otherwise used to reduce a reverse repurchase agreement deficit.

Securities Borrowed.

(G) One percent of the market value of securities borrowed collateralized by an irrevocable letter of credit.

(H) Any receivable from an affiliate of the broker or dealer (not otherwise deducted from net worth) and the market value of any collateral given to an affiliate (not otherwise deducted from net worth) to secure a liability over the amount of the liability of the broker or dealer unless the books and records of the affiliate are made available for examination when requested by the representatives of the Commission or the Examining Authority for the broker or dealer in order to demonstrate the validity of the receivable or payable. The provisions of this subsection shall not apply where the affiliate is a registered broker or dealer, registered government securities broker or dealer or bank as defined in Section 3(a)(6) of the Act or insurance company as defined in Section 3(a)(19) of the Act or investment company registered under the Investment Company Act of 1940 or federally insured savings and loan association or futures commission merchant registered pursuant to the Commodity Exchange Act.

Securities Differences.

(v)(A) Deducting the market value of all short securities differences (which shall include securities positions reflected on the securities record which are not susceptible to either count or confirmation) unresolved after discovery in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Percentage Of Market Value Of Short Securities Differences</th>
<th>Number Of Business Days After Discovery</th>
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<tbody>
<tr>
<td>25%</td>
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</tbody>
</table>

(B) Deducting the market value of any long securities differences, where such securities have been sold by the broker or dealer before they are adequately resolved, less any reserves established therefor;

(C) The designated examining authority for a broker or dealer may extend the periods in (v)(A) of this section for up to 10 business days if it finds that exceptional circumstances warrant an extension.

Securities Haircuts.

(vi) Deducting the percentages specified in paragraphs (c)(2)(vi)(A) through (M) of this section (or the deductions prescribed for securities positions set forth in Appendix A (§ 240.15c3-1a)) of the market value of all securities, money market instruments or options in the proprietary or other accounts of the broker or dealer.
Government Securities.

(A)(1) In the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, the applicable percentages of the market value of the net long or short position in each of the categories specified below are:

Category 1

(i) Less than three months to maturity—0%
(ii) Three months but less than six months to maturity—\( \frac{1}{2} \) of 1%
(iii) Six months but less than nine months to maturity—\( \frac{3}{4} \) of 1%
(iv) Nine months but less than 12 months to maturity—1%

Category 2

(i) One year but less than two years to maturity—1\( \frac{1}{2} \)%
(ii) Two years but less than three years to maturity—2%

Category 3

(i) Three years but less than five years to maturity—3%
(ii) Five years but less than 10 years to maturity—4%

Category 4

(i) 10 years but less than 15 years to maturity—4\( \frac{1}{2} \)%
(ii) 15 years but less than 20 years to maturity—5%
(iii) 20 years but less than 25 years to maturity—5\( \frac{1}{2} \)%
(iv) 25 years or more to maturity—6%

Brokers or dealers shall compute a deduction for each category above as follows: Compute the deductions for the net long or short positions in each subcategory above. The deduction for the category shall be the net of the aggregate deductions on the long positions and the aggregate deductions on the short positions in each category plus 50% of the lesser of the aggregate deductions on the long or short positions.

(2) A broker or dealer may elect to deduct, in lieu of the computation required under paragraph (c)(2)(vi)(A)(1) of this section, the applicable percentages of the market value of the net long or short positions in each of the subcategories specified in paragraph (c)(2)(vi)(A)(1) of this section.

(3) In computing deductions under paragraph (c)(2)(vi)(A)(1) of this section, a broker or dealer may elect to exclude the market value of a long or short security from one category and a security from another category, provided, that:

(i) Such securities have maturity dates:
(A) Between 9 months and 15 months and within 3 months of one another;
(B) Between 2 years and 4 years and within 1 year of one another; or
(C) Between 8 years and 12 years and within 2 years of one another.

(ii) The net market value of the two excluded securities shall remain in the category of the security with the higher market value.
(4) In computing deductions under paragraph (c)(2)(vi)(A)(1) of this section, a broker or dealer may include in the categories specified in paragraph (c)(2)(vi)(A)(1) of this section, long or short positions in securities issued by the United States or any agency thereof that are deliverable against long or short positions in futures contracts relating to Government securities, traded on a recognized contract market approved by the Commodity Futures Trading Commission, which are held in the proprietary or other accounts of the broker or dealer. The value of the long or short positions included in the categories shall be determined by the contract value of the futures contract held in the account. The provisions of Appendix B to Rule 15c3-1 (17 CFR 240.15c3-1b) will in any event apply to the positions in futures contracts.

(5) In the case of a Government securities dealer that reports to the Federal Reserve System, that transacts business directly with the Federal Reserve System, and that maintains at all times a minimum net capital of at least $50,000,000, before application of the deductions provided for in paragraph (c)(2)(vi) of this section, the deduction for a security issued or guaranteed as to principal or interest by the United States or any agency thereof shall be 75 percent of the deduction otherwise computed under paragraph (c)(2)(vi)(A) of this section.

Municipals.

(B)(1) In the case of any municipal security which has a scheduled maturity at date of issue of 731 days or less and which is issued at par value and pays interest at maturity, or which is issued at a discount, and which is not traded flat or in default as to principal or interest, the applicable percentages of the market value on the greater of the long or short position in each of the categories specified below are:

(i) Less than 30 days to maturity—0%
(ii) 30 days but less than 91 days to maturity—\(\frac{1}{8}\) of 1%
(iii) 91 days but less than 181 days to maturity—\(\frac{1}{4}\) of 1%
(iv) 181 days but less than 271 days to maturity—\(\frac{3}{8}\) of 1%
(v) 271 days but less than 366 days to maturity—\(\frac{1}{2}\) of 1%
(vi) 366 days but less than 456 days to maturity—\(\frac{3}{4}\) of 1%
(vii) 456 days but less than 732 days to maturity—1%

(2) In the case of any municipal security, other than those specified in paragraph (c)(2)(vi)(B)(1), which is not traded flat or in default as to principal or interest, the applicable percentages of the market value of the greater of the long or short position in each of the categories specified below are:

(i) Less than one year to maturity—1%
(ii) One year but less than two years to maturity—2%
(iii) Two years but less than 3\(\frac{1}{2}\) years to maturity—3%
(iv) Three and one-half years but less than five years to maturity—4%
(v) Five years but less than seven years to maturity—5%
(vi) Seven years but less than 10 years to maturity—5\(\frac{1}{2}\)%
(vii) 10 years but less than 15 years to maturity—6%
(viii) 15 years but less than 20 years to maturity—6\(\frac{1}{2}\)%
(ix) 20 years or more to maturity—7%

**Canadian Debt Obligations.**

(C) In the case of any security issued or unconditionally guaranteed as to principal and interest by the Government of Canada, the percentages of market value to be deducted shall be the same as in (A) of this section.

**Certain Municipal Bond Trusts and Liquid Asset Funds.**

(D)(1) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets consist of cash or money market instruments and which is described in § 270.2a-7 of this chapter, the deduction will be 2% of the market value of the greater of the long or short position.

(2) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments of any maturity which are described in paragraph (c)(2)(vi)(A) through (C) or (E), the deduction shall be 7% of the market value of the greater of the long or short position.

(3) In the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in paragraphs (c)(2)(vi)(A) through (C) or (E) and (F) of this section, the deduction shall be 9% of the market value of the greater of the long or short position.

**Commercial Paper, Bankers Acceptances and Certificates of Deposit.**

(E) In the case of any short term promissory note or evidence of indebtedness which has a fixed rate of interest or is sold at a discount, which has a maturity date at date of issuance not exceeding nine months exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited and has only a minimal amount of credit risk, or in the case of any negotiable certificates of deposit or bankers’ acceptance or similar type of instrument issued or guaranteed by any bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)), the applicable percentage of the market value of the greater of the long or short position in each of the categories specified below are:

(1) Less than 30 days to maturity—0%

(2) 30 days but less than 91 days to maturity—\(\frac{1}{8}\) of 1%

(3) 91 days but less than 181 days to maturity—\(\frac{1}{4}\) of 1%

(4) 181 days but less than 271 days to maturity—\(\frac{3}{8}\) of 1%

(5) 271 days but less than 1 year to maturity—\(\frac{1}{2}\) of 1%; and

(6) With respect to any negotiable certificate of deposit or bankers acceptance or similar type of instrument issued or guaranteed by any bank, as defined above, having one year or more to maturity, the deduction shall be on the greater of the long or short position and shall be the same percentage as that prescribed in paragraph (c)(2)(vi)(A) of this section.

**Nonconvertible Debt Securities.**

(F)(1) In the case of nonconvertible debt securities having a fixed interest rate and a fixed maturity date, which are not traded flat or in default as to principal or interest and which have only a minimal amount of credit risk, the applicable percentages of the
market value of the greater of the long or short position in each of the categories specified below are:

(i) Less than one year to maturity—2%
(ii) One year but less than two years to maturity—3%
(iii) Two years but less than three years to maturity—5%
(iv) Three years but less than five years to maturity—6%
(v) Five years but less than 10 years to maturity—7%
(vi) 10 years but less than 15 years to maturity—7\(\frac{1}{2}\)%
(vii) 15 years but less than 20 years maturity—8%
(viii) 20 years but less than 25 years to maturity—8\(\frac{1}{2}\)%
(ix) 25 years or more to maturity—9%

(2) A broker or dealer may elect to exclude from the above categories long or short positions that are hedged with short or long positions in securities issued by the United States or any agency thereof or nonconvertible debt securities having a fixed interest rate and a fixed maturity date and which are not traded flat or in default as to principal or interest, and which have only a minimal amount of credit risk if such securities have maturity dates:

(i) Less than five years and within six months of each other;
(ii) Between five years and 10 years and within nine months of each other;
(iii) Between 10 years and 15 years and within two years of each other; or
(iv) 15 years or more and within 10 years of each other.

The broker-dealer shall deduct the amounts specified in paragraphs (c)(2)(vi)(F)(3) and (4) of this section.

(3) With respect to those positions described in paragraph (c)(2)(vi)(F)(2) of this section that include a long or short position in securities issued by the United States or any agency thereof, the broker or dealer shall exclude the hedging short or long United States or agency securities position from the applicable haircut category under paragraph (c)(2)(vi)(A) of this section. The broker or dealer shall deduct the percentage of the market value of the hedged long or short position in nonconvertible debt securities as specified in each of the categories below:

(i) Less than five years to maturity—1\(\frac{1}{2}\)%
(ii) Five years but less than 10 years to maturity—2\(\frac{1}{2}\)%
(iii) 10 years but less than 15 years to maturity—2\(\frac{3}{4}\)%
(iv) 15 years or more to maturity—3%

(4) With respect to those positions described in paragraph (c)(2)(vi)(F)(2) of this section that include offsetting long and short positions in nonconvertible debt securities, the broker or dealer shall deduct a percentage of the market value of the hedged long or short position in nonconvertible debt securities as specified in each of the categories below:

(i) Less than five years to maturity—1\(\frac{3}{4}\)%
(iii) Five years but less than 10 years to maturity—3%  
(iv) 10 years but less than 15 years to maturity—3 1/4%  
(v) 15 years or more to maturity—3 1/2%  

(5) In computing deductions under paragraph (c)(2)(vi)(F)(3) of this section, a broker or dealer may include in the categories specified in paragraph (c)(2)(vi)(F)(3) of this section, long or short positions in securities issued by the United States or any agency thereof that are deliverable against long or short positions in futures contracts relating to Government securities, traded on a recognized contract market approved by the Commodity Futures Trading Commission, which are held in the proprietary or other accounts of the broker or dealer. The value of the long or short positions included in the categories shall be determined by the contract value of the futures contract held in the account.

The provisions of Appendix B to Rule 15c3-1 (17 CFR 240.15c3-1) will in any event apply to the positions in future contracts.

Convertible Debt Securities.

(G) In the case of a debt security not in default which has a fixed rate of interest and a fixed maturity date and which is convertible into an equity security, the deductions shall be as follows: if the market value is 100 percent or more of the principal amount, the deduction shall be determined as specified in paragraph (c)(2)(vi)(J) of this section; if the market value is less than the principal amount, the deduction shall be determined as specified in paragraph (F) of this section if such securities are rated as required by paragraph (F) of this section.

Preferred Stock.

(H) In the case of cumulative, non-convertible preferred stock ranking prior to all other classes of stock of the same issuer, which has only a minimal amount of credit risk and which are not in arrears as to dividends, the deduction shall be 10% of the market value of the greater of the long or short position.

(I) In order to apply a deduction under paragraphs (c)(2)(vi)(E), (c)(2)(vi)(F)(1), (c)(2)(vi)(F)(2), or (c)(2)(vi)(H) of this section, the broker or dealer must assess the creditworthiness of the security or money market instrument pursuant to policies and procedures for assessing and monitoring creditworthiness that the broker or dealer establishes, documents, maintains, and enforces. The policies and procedures must be reasonably designed for the purpose of determining whether a security or money market instrument has only a minimal amount of credit risk. Policies and procedures that are reasonably designed for this purpose should result in assessments of creditworthiness that typically are consistent with market data. A broker-dealer that opts not to make an assessment of creditworthiness under this paragraph may not apply the deductions under paragraphs (c)(2)(vi)(E), (c)(2)(vi)(F)(1), (c)(2)(vi)(F)(2), or (c)(2)(vi)(H) of this section.


All Other Securities.

(J) In the case of all securities or evidences of indebtedness, except those described in Appendix A, § 240.15c3-1a, which are not included in any of the percentage categories enumerated in paragraphs (c)(2)(vi)(A) through (H) of this section or paragraph (c)(2)(vi)(K)(ii) of this section, the deduction shall be 15 percent of the market value of
the greater of the long or short positions and to the extent the market value of the lesser of the long or short positions exceeds 25 percent of the market value of the greater of the long or short positions, the percentage deduction on such excess shall be 15 percent of the market value of such excess. No deduction need be made in the case of:

(1) A security that is convertible into or exchangeable for another security within a period of 90 days, subject to no conditions other than the payment of money, and the other securities into which such security is convertible or for which it is exchangeable, are short in the accounts of such broker or dealer; or

(2) A security that has been called for redemption and that is redeemable within 90 days.

**Securities With a Limited Market.**

(K) In the case of securities (other than exempted securities, nonconvertible debt securities, and cumulative nonconvertible preferred stock) which are not: (1) traded on a national securities exchange; (2) designated as “OTC Margin Stock” pursuant to Regulation T under the Securities Exchange Act of 1934; (3) quoted on “NASDAQ”; or (4) redeemable shares of investment companies registered under the Investment Company Act of 1940, the deduction shall be as follows:

(i) In the case where there are regular quotations in an inter-dealer quotation system for the securities by three or more independent market-makers (exclusive of the computing broker or dealer) and where each such quotation represents a bona fide offer to brokers or dealers to both buy and sell in reasonable quantities at stated prices, or where a ready market as defined in paragraph (c)(11)(ii) is deemed to exist, the deduction shall be determined in accordance with paragraph (c)(2)(vi)(J) of this section;

(ii) In the case where there are regular quotations in an inter-dealer quotation system for the securities by only one or two independent market-makers (exclusive of the computing broker or dealer) and where each such quotation represents a bona fide offer to brokers or dealers both to buy and sell in reasonable quantities, at stated prices, the deduction on both the long and short position shall be 40 percent.

(L) Where a broker or dealer demonstrates that there is sufficient liquidity for any securities long or short in the proprietary or other accounts of the broker or dealer which are subject to a deduction required by paragraph (c)(2)(vi)(K) of this section, such deduction, upon a proper showing to the Examining Authority for the broker or dealer, may be appropriately decreased, but in no case shall such deduction be less than that prescribed in paragraph (c)(2)(vi)(J) of this section.

**Undue Concentration.**

(M)(I) In the case of money market instruments, or securities of a single class or series of an issuer, including any option written, endorsed or held to purchase or sell securities of such a single class or series of an issuer (other than “exempted securities” and redeemable securities of an investment company registered pursuant to the Investment Company Act of 1940), and securities underwritten (in which case the deduction provided for herein shall be applied after 11 business days), which are long or short in the proprietary or other accounts of a broker or dealer, including securities that are collateral to secured demand notes defined in Appendix D, § 240.15c3-1d, and that have a market value of more than 10 percent of the “net capital” of a broker or dealer before the application of paragraph (c)(2)(vi) of this section or Appendix A, § 240.15c3-1a, there shall be an additional deduction from net worth and/or the Collateral Value for securities collateralizing a secured demand note defined in Appendix D, § 240.15c3-1d, equal to 50 percent of the percentage deduction otherwise provided by this paragraph (c)(2)(vi) of this section or Appendix A, § 240.15c3-1a, on that portion of the securities position in excess of 10 percent of the “net capital” of the broker or dealer before the application of paragraph (c)(2)(vi) of this section and
Appendix A, § 240.15c3-1a. In the case of securities described in paragraph (c)(2)(vi)(J), the additional deduction required by this paragraph (c)(2)(vi)(M) shall be 15 percent.

(2) This paragraph (c)(2)(vi)(M) shall apply notwithstanding any long or short position exemption provided for in paragraph (c)(2)(vi)(J) of this section (except for long or short position exemptions arising out of the first proviso to paragraph (c)(2)(vi)(J) and the deduction on any such exempted position shall be 15 percent of that portion of the securities position in excess of 10 percent of the broker or dealer’s net capital before the application of paragraph (c)(2)(vi) of this section and Appendix A, § 240.15c3-1a.

(3) This paragraph (c)(2)(vi)(M) shall be applied to an issue of equity securities only on the market value of such securities in excess of $10,000 or the market value of 500 shares, whichever is greater, or $25,000 in the case of a debt security.

(4) This paragraph (c)(2)(vi)(M) will be applied to an issue of municipal securities having the same security provisions, date of issue, interest rate, day, month and year of maturity only if such securities have a market value in excess of $500,000 in bonds ($5,000,000 in notes) or 10 percent of tentative net capital, whichever is greater, and are held in position longer than 20 business days from the date the securities are received by the syndicate manager from the issuer.

(5) Any specialist that is subject to a deduction required by this paragraph (c)(2)(vi)(M), respecting its specialty stock, that can demonstrate to the satisfaction of the Examining Authority for such broker or dealer that there is sufficient liquidity for such specialist’s specialty stock and that such deduction need not be applied in the public interest for the protection of investors, may upon a proper showing to such Examining Authority have such undue concentration deduction appropriately decreased, but in no case shall the deduction prescribed in paragraph (c)(2)(vi)(J) of this section above be reduced. Each such Examining Authority shall make and preserve for a period of not less than three years a record of each application granted pursuant to this paragraph (c)(2)(vi)(M)(5), which shall contain a summary of the justification for the granting of the application.

(N) Any specialist that limits its securities business to that of a specialist (except for an occasional non-specialist related securities transaction for its own account), that does not transact a business in securities with other than a broker or dealer registered with the Commission under Section 15 or 15C of the Act or a member of a national securities exchange, and that is not a clearing member of The Options Clearing Corporation need not deduct from net worth in computing net capital those deductions, as to its specialty securities, set forth in paragraph (c)(2)(vi) of this section or Appendix A to this section, except for paragraph (e) of this section limiting withdrawals of equity capital and Appendix D to this section relating to satisfactory subordination agreements. As to a specialist that is solely an options specialist, in paragraph (e) the term “net capital” shall be deemed to mean “net capital before the application of paragraph (c)(2)(vi) of this section or Appendix A to this section” and “excess net capital” shall be deemed to be the amount of net capital before the application of paragraph (c)(2)(vi) of this section or Appendix A to this section in excess of the amount of net capital required under paragraph (a) of this section. In reports filed pursuant to § 240.17a-5 and in making the record required by § 240.17a-3(a)(11) each specialists shall include the deductions that would otherwise have been required by paragraph (c)(2)(vi) of this section or Appendix A to this section in the absence of this paragraph (c)(2)(vi)(N).

*(O) Cleared Security-Based Swaps. In the case of a cleared security-based swap held in a proprietary account of the broker or dealer, deducting the amount of the

*Effective September __, 2019, Rule 15c3-1 is amended by adding new paragraph (c)(2)(vi)(O) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements.
applicable margin requirement of the clearing agency or, if the security-based swap references an equity security, the broker or dealer may take a deduction using the method specified in § 240.15c3-1a.

**(P) Non-Cleared Security-Based Swaps.**

**(1) Credit Default Swaps.**

**(i) Short Positions (Selling Protection).** In the case of a non-cleared security-based swap that is a short credit default swap, deducting the percentage of the notional amount based upon the current basis point spread of the credit default swap and the maturity of the credit default swap in accordance with the following table:

<table>
<thead>
<tr>
<th>Length of Time to Maturity of Credit Default Swap Contract</th>
<th>Basis Point Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100 or less</td>
</tr>
<tr>
<td>Less than 12 months</td>
<td>1.00%</td>
</tr>
<tr>
<td>12 months but less than 24 months</td>
<td>1.50%</td>
</tr>
<tr>
<td>24 months but less than 36 months</td>
<td>2.00%</td>
</tr>
<tr>
<td>36 months but less than 48 months</td>
<td>3.00%</td>
</tr>
<tr>
<td>48 months but less than 60 months</td>
<td>4.00%</td>
</tr>
<tr>
<td>60 months but less than 72 months</td>
<td>5.50%</td>
</tr>
<tr>
<td>72 months but less than 84 months</td>
<td>7.00%</td>
</tr>
<tr>
<td>84 months but less than 120 months</td>
<td>8.50%</td>
</tr>
<tr>
<td>120 months and longer</td>
<td>10.00%</td>
</tr>
</tbody>
</table>

for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date:** The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

*Effective September __, 2019, Rule 15c3-1 is amended by adding new paragraph (c)(2)(vi)(P) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date:** The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.*
(ii) **Long Positions (Purchasing Protection).** In the case of a non-cleared security-based swap that is a long credit default swap, deducting 50 percent of the deduction that would be required by paragraph (c)(2)(vi)(P)(I)(i) of this section if the non-cleared security-based swap was a short credit default swap, each such deduction not to exceed the current market value of the long position.

(iii) **Long and Short Positions.**

(A) **Long and Short Credit Default Swaps.** In the case of non-cleared security-based swaps that are long and short credit default swaps referencing the same entity (in the case of non-cleared credit default swap security-based swaps referencing a corporate entity) or obligation (in the case of non-cleared credit default swap security-based swaps referencing an asset-backed security), that have the same credit events which would trigger payment by the seller of protection, that have the same basket of obligations which would determine the amount of payment by the seller of protection upon the occurrence of a credit event, that are in the same or adjacent spread category, and that are in the same or adjacent maturity category and have a maturity date within three months of the other maturity category, deducting the percentage of the notional amount specified in the higher maturity category under paragraphs (c)(2)(vi)(P)(I)(i) or (ii) on the excess of the long or short position. In the case of non-cleared security-based swaps that are long and short credit default swaps referencing corporate entities in the same industry sector and the same spread and maturity categories prescribed in paragraph (c)(2)(vi)(P)(I)(i) of this section, deducting 50 percent of the amount required by paragraph (c)(2)(vi)(P)(I)(i) of this section on the short position plus the deduction required by paragraph (c)(2)(vi)(P)(I)(ii) of this section on the excess long position, if any. For the purposes of this section, the broker or dealer must use an industry sector classification system that is reasonable in terms of grouping types of companies with similar business activities and risk characteristics and the broker or dealer must document the industry sector classification system used pursuant to this section.

(B) **Long Security and Long Credit Default Swap.** In the case of a non-cleared security-based swap that is a long credit default swap referencing a debt security and the broker or dealer is long the same debt security, deducting 50 percent of the amount specified in paragraph (c)(2)(vi) or (vii) of this section for the debt security, provided that the broker or dealer can deliver the debt security to satisfy the obligation of the broker or dealer on the credit default swap.

(C) **Short Security and Short Credit Default Swap.** In the case of a non-cleared security-based swap that is a short credit default swap referencing a debt security or a corporate entity, and the broker or dealer is short the debt security or a debt security issued by the corporate entity, deducting the amount specified in paragraph (c)(2)(vi) or (vii) of this section for the debt security. In the case of a non-cleared security-based swap that is a short credit default swap referencing an asset-backed security and the broker or dealer is short the asset-backed security, deducting the amount specified in paragraph (c)(2)(vi) or (vii) of this section for the asset-backed security.

(2) **Non-Cleared Security-Based Swaps that Are Not Credit Default Swaps.** In the case of a non-cleared security-based swap that is not a credit default swap, deducting the amount calculated by multiplying the notional amount of the security-based swap and the percentage specified in paragraph (c)(2)(vi) of this section applicable to the reference security. A broker or dealer may reduce the deduction under this paragraph (c)(2)(vi)(P)(2) by an amount equal to any reduction recognized for a comparable long or short position in the reference security under paragraph (c)(2)(vi) of this section and, in the case of a security-based swap referencing an equity security, the method specified in § 240.15c3-1a.
Non-Marketable Securities.

(vii) Deducting 100 percent of the carrying value in the case of securities or evidence of indebtedness, in the proprietary or other accounts of the broker or dealer, for which there is no ready market, as defined in paragraph (c)(11) of this section, and securities, in the proprietary or other accounts of the broker or dealer, which cannot be publicly offered or sold because of statutory, regulatory or contractual arrangements or other restrictions.

Open Contractual Commitments.

(viii) Deducting, in the case of a broker or dealer who has open contractual commitments (other than those option positions subject to Appendix A, § 240.15c3-1a), the respective deductions as specified in paragraph (c)(2)(vi) of this section or Appendix B, § 240.15c3-1b, from the value (which shall be the market value whenever there is a market) of each net long and each net short position contemplated by any open contractual commitment in the proprietary or other accounts of the broker or dealer.

(A) The deduction for contractual commitments in those securities that are treated in paragraph (c)(2)(vi)(J) of this section shall be 30 percent unless the class and issue of the securities subject to the open contractual commitment deduction are listed for trading on a national securities exchange or are designated as NASDAQ National Market System Securities.

(B) A broker or dealer that maintains in excess of $250,000 of net capital may add back to net worth up to $150,000 of any deduction computed under this paragraph (c)(2)(viii)(B).

(C) The deduction with respect to any single commitment shall be reduced by the unrealized profit in such commitment, in an amount not greater than the deduction provided for by this paragraph (or increased by the unrealized loss), in such commitment, and in no event shall an unrealized profit on any closed transactions operate to increase net capital.

(ix) Deducting from the contract value of each failed to deliver contract that is outstanding five business days or longer (21 business days or longer in the case of municipal securities) the percentages of the market value of the underlying security that would be required by application of the deduction required by paragraph (c)(2)(vi) of this section. Such deduction, however, shall be increased by any excess of the contract price of the failed to deliver contract over the market value of the underlying security or reduced by any excess of the market value of the underlying security over the contract value of the failed to deliver contract, but not to exceed the amount of such deduction. The designated examining authority for the broker or dealer may, upon application of the broker or dealer, extend for a period of up to five business days, any period herein specified when it is satisfied that the extension is warranted. The designated examining authority upon expiration of the extension may extend for one additional period of up to five business days, any period herein specified when it is satisfied that the extension is warranted.

Brokers or Dealers Carrying Accounts of Listed Options Specialists.

(x)(A) With respect to any transaction of a specialist in listed options, who is either not otherwise subject to the provisions of this section or is described in paragraph (c)(2)(vi)(N) of this section, for whose specialist account a broker or dealer acts as a guarantor, endorser, or carrying broker or dealer, such broker or dealer shall adjust its net worth by deducting as of noon of each business day the amounts computed as of the prior business day pursuant to § 240.15c3-1a. The required deductions may be reduced by any liquidating equity that exists in such specialist’s market-maker account as of that time and shall be increased to the extent of any liquidating deficit in such account. Noon shall be determined according to the local time where the broker or dealer is located.
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headquartered. In no event shall excess equity in the specialist’s market-maker account result in an increase of the net capital of any such guarantor, endorser, or carrying broker or dealer.

(B) Definitions. (1) The term listed option shall mean any option traded on a registered national securities exchange or automated facility of a registered national securities association.

(2) For purposes of this section, the equity in an individual specialist’s market-maker account shall be computed by:

(i) Marking all securities positions long or short in the account to their respective current market values;

(ii) Adding (deducting in the case of a debit balance) the credit balance carried in such specialist’s market-maker account; and

(iii) Adding (deducting in the case of short positions) the market value of positions long in such account.

(C) No guarantor, endorser, or carrying broker or dealer shall permit the sum of the deductions required pursuant to § 240.15c3-1a in respect of all transactions in specialists’ market-maker accounts guaranteed, endorsed, or carried by such broker or dealer to exceed 1,000 percent of such broker’s or dealer’s net capital as defined in § 240.15c3-1(c)(2) for any period exceeding three business days. If at any time such sum exceeds 1,000 percent of such broker’s or dealer’s net capital, then the broker or dealer shall:

(1) Immediately transmit telegraphic or facsimile notice of such event to the Division of Market Regulation in the headquarters office of the Commission in Washington, DC, to the regional office of the Commission for the region in which the broker or dealer maintains its principal place of business, and to its examining authority designated pursuant to Section 17(d) of the Act (“Designated Examining Authority”); and

(2) Be subject to the prohibitions against withdrawal of equity capital set forth in § 240.15c3-1(e) and to the prohibitions against reduction, prepayment, and repayment of subordination agreements set forth in paragraph (b)(11) of § 240.15c3-1d, as if such broker or dealer’s net capital were below the minimum standards specified by each of those paragraphs.

(D) If at any time there is a liquidating deficit in a specialist’s market-maker account, then the broker or dealer guaranteeing, endorsing, or carrying listed options transactions in such specialist’s market-maker account may not extend any further credit in that account, and shall take steps to liquidate promptly existing positions in the account. This paragraph shall not prevent the broker or dealer from, upon approval by the broker’s or dealer’s Designated Examining Authority, entering into hedging positions in the specialist’s market-maker account. The broker or dealer also shall transmit telegraphic or facsimile notice of the deficit and its amount by the close of business of the following business day to its Designated Examining Authority and the Designated Examining Authority of the specialist, if different from its own.

(E) Upon written application to the Commission by the specialist and the broker or dealer guaranteeing, endorsing, or carrying options transactions in such specialist’s market-maker account, the Commission may approve upon specified terms and conditions lesser adjustments to net worth than those specified in § 240.15c3-1a.
Brokers or Dealers Carrying Specialists or Market Makers Accounts.

(xi) With respect to a broker or dealer who carries a market maker or specialist account, or with respect to any transaction in options listed on a registered national securities exchange for which a broker or dealer acts as a guarantor or endorser of options written by a specialist in a specialist account, the broker or dealer shall deduct, for each account carried or for each class or series of options guaranteed or endorsed, any deficiency in collateral required by subparagraph (a)(6) of this section.

Deduction From Net Worth For Certain Undermargined Accounts.

*(xii) [(A)] Deducting the amount of cash required in each customer’s or non-customer’s account to meet the maintenance margin requirements of the Examining Authority for the broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less.

*(B) Deducting the amount of cash required in the account of each security-based swap and swap customer to meet the margin requirements of a clearing agency, Examining Authority, the Commission, derivatives clearing organization, or the Commodity Futures Trading Commission, as applicable, after application of calls for margin, marks to the market, or other required deposits which are outstanding within the required time frame to collect the margin, mark to the market, or other required deposits.

Deduction From Net Worth For Indebtedness Collateralized By Exempted Securities.

(xiii) Deducting, at the option of the broker or dealer, in lieu of including such amounts in aggregate indebtedness, 4 percent of the amount of any indebtedness secured by exempted securities or municipal securities if such indebtedness would otherwise be includable in aggregate indebtedness.

Deduction From Net Worth For Excess Deductible Amounts Related to Fidelity Bond Coverage.

(xiv) Deducting the amount specified by rule of the Examining Authority for the broker or dealer with respect to a requirement to maintain fidelity bond coverage.

**(xv) Deduction From Net Worth in Lieu of Collecting Collateral For Non-Cleared Security-Based Swap and Swap Transactions.

*Effective September __, 2019, Rule 15c3-1 is amended by re-designating paragraph (c)(2)(xii) as paragraph (c)(2)(xii)(A) and adding new paragraph (c)(2)(xii)(B) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1 is amended by adding new paragraph (c)(2)(xv) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(A) **Security-Based Swaps.** Deducting the initial margin amount calculated pursuant to § 240.18a-3(c)(1)(i)(B) for the account of a counterparty at the broker or dealer that is subject to a margin exception set forth in § 240.18a-3(c)(1)(iii), less the margin value of collateral held in the account.

(B) **Swaps.** Deducting the initial margin amount calculated pursuant to the margin rules of the Commodity Futures Trading Commission in the account of a counterparty at the broker or dealer that is subject to a margin exception in those rules, less the margin value of collateral held in the account.

(C) **Treatment of Collateral Held at a Third-Party Custodian.** For the purposes of the deductions required pursuant to paragraphs (c)(2)(xv)(A) and (B) of this section, collateral held by an independent third-party custodian as initial margin may be treated as collateral held in the account of the counterparty at the broker or dealer if:

1. The independent third-party custodian is a bank as defined in section 3(a)(6) of the Act or a registered U.S. clearing organization or depository that is not affiliated with the counterparty or, if the collateral consists of foreign securities or currencies, a supervised foreign bank, clearing organization, or depository that is not affiliated with the counterparty and that customarily maintains custody of such foreign securities or currencies;

2. The broker or dealer, the independent third-party custodian, and the counterparty that delivered the collateral to the custodian have executed an account control agreement governing the terms under which the custodian holds and releases collateral pledged by the counterparty as initial margin that is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions, including in the event of bankruptcy, insolvency, or a similar proceeding of any of the parties to the agreement, and that provides the broker or dealer with the right to access the collateral to satisfy the counterparty’s obligations to the broker or dealer arising from transactions in the account of the counterparty; and

3. The broker or dealer maintains written documentation of its analysis that in the event of a legal challenge the relevant court or administrative authorities would find the account control agreement to be legal, valid, binding, and enforceable under the applicable law, including in the event of the receivership, conservatorship, insolvency, liquidation, or a similar proceeding of any of the parties to the agreement.

**Exempted Securities.**


**Contractual Commitments.**

4. The term *contractual commitments* shall include underwriting, when issued, when distributed and delayed delivery contracts, the writing or endorsement of puts and calls and combinations thereof, commitments in foreign currencies, and spot (cash) commodities contracts, but shall not include uncleared regular way purchases and sales of securities and contracts in commodities futures. A series of contracts of purchase or sale of the same security conditioned, if at all, only upon issuance may be treated as an individual commitment.

**Adequately Secured.**

5. Indebtedness shall be deemed to be adequately secured within the meaning of this rule when the excess of the market value of the collateral over the amount of the indebtedness is sufficient to make the loan acceptable as a fully secured loan to banks regularly making secured loans to brokers or dealers.
Customer.

(6) The term customer shall mean any person from whom, or on whose behalf, a broker or dealer has received, acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer, or a registered municipal securities dealer, or a general, special or limited partner or director or officer of the broker or dealer, or any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer; Provided, however, That the term “customer” shall also include a broker or dealer, but only insofar as such broker or dealer maintains a special omnibus account carried with another broker or dealer in compliance with 12 CFR 220.4(b) of Regulation T under the Securities Exchange Act of 1934.

Non-Customer.

(7) The term non-customer means a broker or dealer, registered municipal securities dealer, general partner, limited partner, officer, director and persons to the extent their claims are subordinated to the claims of creditors of the broker or dealer.

Market Maker.

(8) The term market maker shall mean a dealer who, with respect to a particular security: (i) regularly publishes bona fide, competitive bid and offer quotations in a recognized inter-dealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on request; and (iii) is ready, willing and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

Promptly Transmit and Deliver.

(9) A broker or dealer is deemed to promptly transmit all funds and to “properly deliver” all securities within the meaning of paragraphs (a)(2)(i) and (a)(2)(v) of this section where such transmission or delivery is made no later than noon of the next business day after the receipt of such funds or securities; provided, however, that such prompt transmission or delivery shall not be required to be effected prior to the settlement date for such transactions.

Promptly Forward.

(10) A broker or dealer is deemed to promptly forward funds or securities within the meaning of paragraph (a)(2)(i) of this section only when such forwarding occurs no later than noon of the next business day following receipt of such funds or securities.

Ready Market.

(11)(i) The term ready market shall include a recognized established securities market in which there exists independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined for a particular security almost instantaneously and where payment will be received in settlement of a sale at such price within a relatively short time conforming to trade custom.

(ii) A ready market shall also be deemed to exist where securities have been accepted as collateral for a loan by a bank as defined in Section 3(a)(6) of the Securities Exchange Act of 1934 and where the broker or dealer demonstrates to its Examining Authority, that such securities adequately secure such loans as that term is defined in paragraph (c)(5) of this section.
Examining Authority.

(12) The term Examining Authority of a broker or dealer shall mean for the purposes of 17 CFR 240.15c3-1 and 240.15c3-1a–d the national securities exchange or national securities association of which the broker or dealer is a member or, if the broker or dealer is a member of more than one such self-regulatory organization, the organization designated by the Commission as the Examining Authority for such broker or dealer, or if the broker or dealer is not a member of any such self-regulatory organization, the Regional Office of the Commission where such broker or dealer has its principal place of business.

Entities that Have a Principal Regulator.

(13)(i) For purposes of § 240.15c3-1e and § 240.15c3-1g, the term entity that has a principal regulator shall mean a person (other than a natural person) that is not a registered broker or dealer (other than a broker or dealer registered under section 15(b)(11) of the Act (15 U.S.C. 78o(b)(11)), provided that the person is:

(A) An insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(B) Registered as a futures commission merchant or an introducing broker with the Commodity Futures Trading Commission;

(C) Registered with or licensed by a State insurance regulator and issues any insurance, endowment, or annuity policy or contract;

(D) A foreign bank as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) that has its headquarters in a jurisdiction for which any foreign bank has been approved by the Board of Governors of the Federal Reserve System to conduct business pursuant to the standards set forth in 12 CFR 211.24(c), provided such foreign bank represents to the Commission that it is subject to the same supervisory regime as the foreign bank previously approved by the Board of Governors of the Federal Reserve System;

(E) Not primarily in the securities business, and the person is:

(1) A corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 through 633); or

(2) A corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act (12 U.S.C. 601 through 604a); or

(F) A person that the Commission finds is another entity that is subject to comprehensive supervision, has in place appropriate arrangements so that information that the person provides to the Commission is sufficiently reliable for the purposes of determining compliance with § 240.15c3-1e and § 240.15c3-1g, and it is appropriate to consider the person to be an entity that has a principal regulator considering all relevant circumstances, including the person’s mix of business.

(ii) For purposes of § 240.15c3-1e, § 240.15c3-1g, § 240.17h-1T, and § 240.17h2T, the term ultimate holding company that has a principal regulator shall mean a person (other than a natural person) that:

(A) Is a financial holding company or a company that is treated as a financial holding company under the Bank Holding Company Act of 1956 (12 U.S.C. 1840 et seq.), or

(B) The Commission determines to be an ultimate holding company that has a principal regulator, if that person is subject to consolidated, comprehensive supervision; there are in place appropriate arrangements so that information that the person provides to the Commission is sufficiently reliable for the purposes of determining compliance
with § 240.15c3-1e and § 240.15c3-1g; and it is appropriate to consider the person to be an ultimate holding company that has a principal regulator in view of all relevant circumstances, including the person’s mix of business.

**Municipal Securities.**

(14) The term *municipal securities* shall mean those securities included within the definition of “municipal securities” in Section 3(a)(29) of the Securities Exchange Act of 1934.

**Tentative Net Capital**

(15) The term *tentative net capital* shall mean the net capital of a broker or dealer before deducting the securities haircuts computed pursuant to paragraph (c)(2)(vi) of this section and the charges on inventory computed pursuant to Appendix B to this section (§ 240.15c3-1b). However, for purposes of paragraph (a)(5) of this section, the term *tentative net capital* means the net capital of an OTC derivatives dealer before deducting the charges for market and credit risk as computed pursuant to Appendix F to this section (§ 240.15c3-1f) or paragraph (c)(2)(vi) of this section, if applicable, and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in eligible OTC derivative instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of this section. For purposes of paragraph (a)(7) of this section, the term *tentative net capital* means the net capital of the broker or dealer before deductions for market and credit risk computed pursuant to § 240.15c3-1e or paragraph (c)(2)(vi) of this section, if applicable, and increased by the balance sheet value (including counterparty net exposure) resulting from transactions in derivative instruments which would otherwise be deducted by virtue of paragraph (c)(2)(iv) of this section. Tentative net capital shall include securities for which there is no ready market, as defined in paragraph (c)(11) of this section, if the use of mathematical models has been approved for purposes of calculating deductions from net capital for those securities pursuant to § 240.15c3-1e.

**Insolvent.**

(16) For the purposes of this section, a broker or dealer is insolvent if the broker or dealer:

(i) Is the subject of any bankruptcy, equity receivership proceeding or any other proceeding to reorganize, conserve, or liquidate such broker or dealer or its property or is applying for the appointment or election of a receiver, trustee, or liquidator or similar official for such broker or dealer or its property;

(ii) Has made a general assignment for the benefit of creditors;

(iii) Is insolvent within the meaning of section 101 of title 11 of the United States Code, or is unable to meet its obligations as they mature, and has made an admission to such effect in writing or in any court or before any agency of the United States or any State; or

(iv) Is unable to make such computations as may be necessary to establish compliance with this section or with § 240.15c3-3.

*(17) The term *risk margin amount* means the sum of:

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*Effective September __, 2019, Rule 15c3-1 is amended by adding new paragraph (c)(17) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and*
(i) The total initial margin required to be maintained by the broker or dealer at each clearing agency with respect to security-based swap transactions cleared for security-based swap customers; and

(ii) The total initial margin amount calculated by the broker or dealer with respect to non-cleared security-based swaps pursuant to § 240.18a-3(c)(1)(i)(B).

Debt-Equity Requirements.

(d) No broker or dealer shall permit the total of outstanding principal amounts of its satisfactory subordination agreements (other than such agreements which qualify under this paragraph (d) as equity capital) to exceed 70 percent of its debt-equity total, as hereinafter defined, for a period in excess of 90 days or for such longer period which the Commission may, upon application of the broker or dealer, grant in the public interest or for the protection of investors. In the case of a corporation, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, par or stated value of capital stock, paid-in capital in excess of par, retained earnings, unrealized profit and loss or other capital accounts. In the case of a partnership, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of partners (exclusive of such partners’ securities accounts) subject to the provisions of paragraph (e) of this section, and unrealized profit and loss. In the case of a sole proprietorship, the debt-equity total shall include the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of the sole proprietorship, and unrealized profit and loss. Provided, however, That a satisfactory subordination agreement entered into by a partner or stockholder which has an initial term of at least three years and has a remaining term of not less than 12 months shall be considered equity for the purposes of this paragraph (d) if: (1) it does not have any of the provisions for accelerated maturity provided for by paragraphs (b)(9)(i), (b)(10)(i) or (b)(10)(ii) of Appendix D (17 CFR 240.15c3-1d), and is maintained as capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section, or (2) the partnership agreement provides that capital contributed pursuant to a satisfactory subordination agreement as defined in Appendix D (17 CFR 240.15c3-1d), shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section.


(e)(1) No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C (17 CFR 240.15c3-1c) may be withdrawn by action of a stockholder or a partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate without written notice given in accordance with paragraph (e)(1)(iv) of this section:

(i) Two business days prior to any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 30 percent of the broker or dealer’s excess net capital. A broker or dealer, in an emergency situation, may make withdrawals, advances or loans that on a net basis exceed 30 percent of the broker or dealer’s excess net capital in any 30 calendar day period without giving the advance notice required by this paragraph, with the prior reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
approval of its Examining Authority. Where a broker or dealer makes a withdrawal with the consent of its Examining Authority, it shall in any event comply with paragraph (e)(1)(ii) of this section; or

(ii) Two business days after any withdrawals, advances or loans if those withdrawals, advances or loans on a net basis exceed in the aggregate in any 30 calendar day period, 20 percent of the broker or dealer's excess net capital; or

(iii) This paragraph (e)(1) does not apply to:

(A) Securities or commodities transactions in the ordinary course of business between a broker or dealer and an affiliate where the broker or dealer makes payment to or on behalf of such affiliate for such transaction and then receives payment from such affiliate for the securities or commodities transaction within two business days from the date of the transaction; or

(B) Withdrawals, advances or loans which in the aggregate in any thirty calendar day period, on a net basis, equal $500,000 or less.

(iv) Each required notice shall be effective when received by the Commission in Washington, DC, the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the broker or dealer's Examining Authority and the Commodity Futures Trading Commission if such broker or dealer is registered with that Commission.

Limitations on Withdrawal of Equity Capital.

(2) No equity capital of the broker or dealer or a subsidiary or affiliate consolidated pursuant to Appendix C (17 CFR 240.15c3-1c) may be withdrawn by action of a stockholder or a partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, employee or affiliate, if after giving effect thereto and to any other such withdrawals, advances or loans and any Payments of Payment Obligations (as defined in Appendix D (17 CFR 240.15c3-1d)) under satisfactory subordination agreements which are scheduled to occur within 180 days following such withdrawal, advance or loan if:

(i) The broker or dealer's net capital would be less than 120 percent of the minimum dollar amount required by paragraph (a) of this section;

(ii) The broker-dealer is registered as a futures commission merchant, its net capital would be less than 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer's account);

(iii) The broker-dealer's net capital would be less than 25 percent of deductions from net worth in computing net capital required by paragraphs (c)(2)(vi), (f) and Appendix A, of this section, unless the broker or dealer has the prior approval of the Commission to make such withdrawal;

(iv) The total outstanding principal amounts of satisfactory subordination agreements of the broker or dealer and any subsidiaries or affiliates consolidated pursuant to Appendix C (17 CFR 240.15c3-1c) (other than such agreements which qualify as
equity under paragraph (d) of this section) would exceed 70% of the debt-equity total as defined in paragraph (d) of this section;

(v) The broker or dealer is subject to the aggregate indebtedness limitations of paragraph (a) of this section, the aggregate indebtedness of any of the consolidated entities exceeds 1000 percent of its net capital; or

(vi) The broker or dealer is subject to the alternative net capital requirement of paragraph (f) of this section, its net capital would be less than five percent of aggregate debit items computed in accordance with 17 CFR 240.15c3-3a.

(3)(i) Temporary Restrictions on Withdrawal of Net Capital. The Commission may by order restrict, for a period of up to twenty business days, any withdrawal by the broker or dealer of equity capital or unsecured loan or advance to a stockholder, partner, sole proprietor, member, employee or affiliate under such terms and conditions as the Commission deems necessary or appropriate in the public interest or consistent with the protection of investors if the Commission, based on the information available, concludes that such withdrawal, advance or loan may be detrimental to the financial integrity of the broker or dealer, or may unduly jeopardize the broker or dealer’s ability to repay its customer claims or other liabilities which may cause a significant impact on the markets or expose the customers or creditors of the broker or dealer to loss without taking into account the application of the Securities Investor Protection Act of 1970.

(ii) An order temporarily prohibiting the withdrawal of capital shall be rescinded if the Commission determines that the restriction on capital withdrawal should not remain in effect. A hearing on an order temporarily prohibiting the withdrawal of capital will be held within two business days from the date of the request in writing by the broker or dealer.

(4)(i) Miscellaneous Provisions. Excess net capital is that amount in excess of the amount required under paragraph (a) of this section. For the purposes of paragraphs (e)(1) and (e)(2) of this section, a broker or dealer may use the amount of excess net capital and deductions required under paragraphs (c)(2)(vi), (f) and Appendix A of this section reported in its most recently required filed Form X-17A-5 for the purposes of calculating the effect of a projected withdrawal, advance or loan relative to excess net capital or deductions. The broker or dealer must assure itself that the excess net capital or the deductions reported on the most recently required filed Form X-17A-5 have not materially changed since the time such report was filed.

(ii) The term equity capital includes capital contributions by partners, par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts. The term equity capital does not include securities in the securities accounts of partners and balances in limited partners’ capital accounts in excess of their stated capital contributions.

(iii) Paragraphs (e)(1) and (e)(2) of this section shall not preclude a broker or dealer from making required tax payments or preclude the payment to partners of reasonable compensation, and such payments shall not be included in the calculation of withdrawals, advances, or loans for purposes of paragraphs (e)(1) and (e)(2) of this section.

(iv) For the purpose of this paragraph (e) of this section, any transaction between a broker or dealer and a stockholder, partner, sole proprietor, employee or affiliate that results in a diminution of the broker or dealer’s net capital shall be deemed to be an advance or loan of net capital.
Rule 15c3-1a. Options (Appendix A to 17 CFR 240.15c3-1).*

(a) Definitions. (1) The term unlisted option shall mean any option not included in the definition of listed option provided in paragraph (c)(2)(x) of § 240.15c3-1.

(2) The term option series refers to listed option contracts of the same type (either a call or a put) and exercise style, covering the same underlying security with the same exercise price, expiration date, and number of underlying units.

**(3) The term related instrument within an option class or product group refers to futures contracts and options on futures contracts covering the same underlying instrument. In relation to options on foreign currencies a related instrument within an option class also shall include forward contracts on the same underlying currency.

**(3) The term related instrument within an option class or product group refers to futures contracts, options on futures contracts, security-based swaps on a narrow-based security index, and swaps covering the same underlying instrument. In relation to options on foreign currencies, a related instrument within an option class also shall include forward contracts on the same underlying currency.

**(4) The term underlying instrument refers to long and short positions, as appropriate, covering the same foreign currency, the same security, or a security which is exchangeable for or convertible into the underlying security within a period of 90 days. If the exchange or conversion requires the payment of money or results in a loss upon conversion at the time when the security is deemed an underlying instrument for purposes of this Appendix A, the broker or dealer will deduct from net worth the full amount of the conversion loss. The term “underlying instrument” shall not be deemed

*Effective September __, 2019, Rule 15c3-1a is amended by revising paragraph (a)(3), revising paragraph (a)(4), revising paragraphs (b)(1)(v)(C)(3) and (4), and adding paragraph (b)(1)(v)(C)(5) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1a is amended by revising paragraph (a)(3) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (a)(3) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

***Effective September __, 2019, Rule 15c3-1a is amended by revising paragraph (a)(4) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (a)(4) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
to include securities options, futures contracts, options on futures contracts, qualified stock baskets, or unlisted instruments.

*(4) The term *underlying instrument* refers to long and short positions, as appropriate, covering the same foreign currency, the same security, security future, or security-based swap other than a security-based swap on a narrow-based security index, or a security which is exchangeable for or convertible into the underlying security within a period of 90 days. If the exchange or conversion requires the payment of money or results in a loss upon conversion at the time when the security is deemed an underlying instrument for purposes of this Appendix A, the broker or dealer will deduct from net worth the full amount of the conversion loss. The term *underlying instrument* shall not be deemed to include securities options, futures contracts, options on futures contracts, security-based swaps on a narrow-based security index, qualified stock baskets, unlisted instruments, or swaps.

(5) The term *options class* refers to all options contracts covering the same underlying instrument.

(6) The term *product group* refers to two or more option classes, related instruments, underlying instruments, and qualified stock baskets in the same portfolio type (see paragraph (b)(1)(ii) of this section) for which it has been determined that a percentage of offsetting profits may be applied to losses at the same valuation point.

(b) The deduction under this Appendix A to § 240.15c3-1 shall equal the sum of the deductions specified in paragraphs (b)(1)(v)(C) or (b)(2) of this section.

*Theoretical Pricing Charges.*

(1)(i) *Definitions.*

(A) The terms *theoretical gains and losses* shall mean the gain and loss in the value of individual option series, the value of underlying instruments, related instruments, and qualified stock baskets within that option’s class, at 10 equidistant intervals (valuation points) ranging from an assumed movement (both up and down) in the current market value of the underlying instrument equal to the percentage corresponding to the deductions otherwise required under § 240.15c3-1 for the underlying instrument (see paragraph (a)(1)(iii) of this section). Theoretical gains and losses shall be calculated using a theoretical options pricing model that satisfies the criteria set forth in paragraph (a)(1)(i)(B) of this section.

(B) The term *theoretical options pricing model* shall mean any mathematical model, other than a broker-dealer proprietary model, approved by a Designated Examining Authority. Such Designated Examining Authority shall submit the model to the Commission, together with a description of its methods for approving models. Any such model shall calculate theoretical gains and losses as described in paragraph (a)(1)(i)(A) of this section for all series and issues of equity, index and foreign currency options and related instruments, and shall be made available equally and on the same terms to all registered brokers or dealers. Its procedures shall include the arrangement of the vendor

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to supply accurate and timely data to each broker-dealer with respect to its services, and the fees for distribution of the services. The data provided to brokers or dealers shall also contain the minimum requirements set forth in paragraph (b)(1)(v)(C) of this section and the product group offsets set forth in paragraph (b)(1)(v)(B) of this section. At a minimum, the model shall consider the following factors in pricing the option:

(I) The current spot price of the underlying asset;

(2) The exercise price of the option;

(3) The remaining time until the option’s expiration;

(4) The volatility of the underlying asset;

(5) Any cash flows associated with ownership of the underlying asset that can reasonably be expected to occur during the remaining life of the option; and

(6) The current term structure of interest rates.

(C) The term major market foreign currency shall mean the currency of a sovereign nation for which there is a substantial inter-bank forward currency market.

(D) The term qualified stock basket shall mean a set or basket of stock positions which represents no less than 50% of the capitalization for a high-capitalization or non-high-capitalization diversified market index, or, in the case of a narrow-based index, no less than 95% of the capitalization for such narrow-based index.

(ii) With respect to positions involving listed options in a single specialist’s market-maker account, and, separately, with respect to positions involving listed option positions in its proprietary or other account, the broker or dealer shall group long and short positions into the following portfolio types:

(A) Equity options on the same underlying instrument and positions in that underlying instrument;

(B) Options on the same major market foreign currency, positions in that major market foreign currency, and related instruments within those options’ classes;

(C) High-capitalization diversified market index options, related instruments within the option’s class, and qualified stock baskets in the same index;

(D) Non-high-capitalization diversified index options, related instruments within the index option’s class, and qualified stock baskets in the same index; and

(E) Narrow-based index options, related instruments within the index option’s class, and qualified stock baskets in the same index.

(iii) Before making the computation, each broker or dealer shall obtain the theoretical gains and losses for each options series and for the related and underlying instruments within those options’ classes in each specialist’s market-maker account guaranteed, endorsed, or carried by a broker or dealer, or in the proprietary or other accounts of that broker or dealer. For each option series, the theoretical options pricing model shall calculate theoretical prices at 10 equidistant valuation points within a range consisting of an increase or a decrease of the following percentages of the daily market price of the underlying instrument:

(A) $\pm 15\%$ for equity securities with a ready market, narrow-based indexes, and non-high-capitalization diversified indexes;

(B) $\pm 6\%$ for major market foreign currencies;

(C) $\pm 20\%$ for all other currencies; and
(D) + (−)10% for high-capitalization diversified indexes.

(iv) As to non-clearing option specialists and market-makers, the percentages of the daily market price of the underlying instrument shall be:

(A) + (−)41/2% for major market foreign currencies; and

(B) + 6 (−)8% for high-capitalization diversified indexes.

(C) + (−)10% for a non-clearing market-maker, or specialist in non-high-capitalization diversified index product group.

(v)(A) The broker or dealer shall multiply the corresponding theoretical gains and losses at each of the 10 equidistant valuation points by the number of positions held in a particular options series, the related instruments and qualified stock baskets within the option’s class, and the positions in the same underlying instrument.

(B) In determining the aggregate profit or loss for each portfolio type, the broker or dealer will be allowed the following offsets in the following order, provided, that in the case of qualified stock baskets, the broker or dealer may elect to net individual stocks between qualified stock baskets and take the appropriate deduction on the remaining, if any, securities:

(1) First, a broker or dealer is allowed the following offsets within an option’s class:

(i) Between options on the same underlying instrument, positions covering the same underlying instrument, and related instruments within the option’s class, 100% of a position’s gain shall offset another position’s loss at the same valuation point;

(ii) Between index options, related instruments within the option’s class, and qualified stock baskets on the same index, 95%, or such other amount as designated by the Commission, of gains shall offset losses at the same valuation point;

(2) Second, a broker-dealer is allowed the following offsets within an index product group:

(i) Among positions involving different high-capitalization diversified index option classes within the same product group, 90% of the gain in a high-capitalization diversified market index option, related instruments, and qualified stock baskets within that index option’s class shall offset the loss at the same valuation point in a different high-capitalization diversified market index option, related instruments, and qualified stock baskets within that index option’s class;

(ii) Among positions involving different non-high-capitalization diversified index option classes within the same product group, 75% of the gain in a non-high-capitalization diversified market index option, related instruments, and qualified stock baskets within that index option’s class shall offset the loss at the same valuation point in another non-high-capitalization diversified market index option, related instruments, and qualified stock baskets within that index option’s class or product group;

(iii) Among positions involving different narrow-based index option classes within the same product group, 90% of the gain in a narrow-based market index option, related instruments, and qualified stock baskets within that index option’s class shall offset the loss at the same valuation point in another narrow-based market index option, related instruments, and qualified stock baskets within that index option’s class or product group;

(iv) No qualified stock basket should offset another qualified stock basket; and

(3) Third, a broker-dealer is allowed the following offsets between product groups: Among positions involving different diversified index product groups within the same
market group, 50 percent of the gain in a diversified market index option, a related instrument, or a qualified stock basket within that index option’s product group shall offset the loss at the same valuation point in another product group;

(C) For each portfolio type, the total deduction shall be the larger of:

(1) The amount for any of the 10 equidistant valuation points representing the largest theoretical loss after applying the offsets provided in paragraph (b)(1)(v)(B) of this section; or

(2) A minimum charge equal to 25 percent times the multiplier for each equity and index option contract and each related instrument within the option’s class or product group, or $25 for each option on a major market foreign currency with the minimum charge for futures contracts and options on futures contracts adjusted for contract size differentials, not to exceed market value in the case of long positions in options and options on futures contracts; plus

*(3) In the case of portfolio types involving index options and related instruments offset by a qualified stock basket, there will be a minimum charge of five percent of the market value of the qualified stock basket for high-capitalization diversified and narrow-based indexes; and

**(4) In the case of portfolio types involving index options and related instruments offset by a qualified stock basket, there will be a minimum charge of 7 1/2% of the market value of the qualified stock basket for non-high-capitalization diversified indexes.

*Effective September __, 2019, Rule 15c3-1a is amended by revising paragraph (b)(1)(v)(C)(3) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(1)(v)(C)(3) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date:** The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1a is amended by revising paragraph (b)(1)(v)(C)(4) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(1)(v)(C)(4) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date:** The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
*(5) In the case of portfolio types involving security futures and equity options on the same underlying instrument and positions in that underlying instrument, there will be a minimum charge of 25 percent times the multiplier for each security future and equity option.

**Alternative Strategy Based Method.**

(2) A broker or dealer may elect to apply the alternative strategy based method in accordance with the provisions of this paragraph (b)(2).

(i) **Definitions.** (A) The term *intrinsic value* or *in-the-money amount* shall mean the amount by which the exercise value, in the case of a call, is less than the current market value of the underlying instrument, and, in the case of a put, is greater than the current market value of the underlying instrument.

(B) The term *out-of-the-money amount* shall mean the amount by which the exercise value, in the case of a call, is greater than the current market value of the underlying instrument, and, in the case of a put, is less than the current market value of the underlying instrument.

(C) The term *time value* shall mean the current market value of an option contract that is in excess of its intrinsic value.

(ii) Every broker or dealer electing to calculate adjustments to net worth in accordance with the provisions of this paragraph (b)(2) must make the following adjustments to net worth:

(A) Add the time value of a short position in a listed option; and

(B) Deduct the time value of a long position in a listed option, which relates to a position in the same underlying instrument or in a related instrument within the option class or product group as recognized in the strategies enumerated in paragraph (b)(2)(iii)(D) of this section; and

(C) Add the net short market value or deduct the long market value of listed options as recognized in the strategies enumerated in paragraphs (b)(2)(iii)(E)(1) and (2) of this section.

(iii) In computing net capital after the adjustments provided for in paragraph (b)(2)(ii) of this section, every broker or dealer shall deduct the percentages specified in this paragraph (b)(2)(iii) for all listed option positions, positions covering the same underlying instrument and related instruments within the options’ class or product group.

**Uncovered Calls.**

(A) Where a broker or dealer is short a call, deducting the percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1 of the current market value of the underlying instrument for such option reduced by its out-of-the-money amount, to the extent that such reduction does not operate to increase net capital. In no event shall this

*Effective September __, 2019, Rule 15c3-1a is amended by adding paragraph (b)(1)(v)(C)(5) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.*
Uncovered Puts.

(B) Where a broker or dealer is short a put, deducting the percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1 of the current market value of the underlying instrument for such option reduced by its out-of-the-money amount, to the extent that such reduction does not operate to increase net capital. In no event shall the deduction provided by this paragraph be less than the greater of $250 for each short put option contract for 100 shares or 50% of the aforementioned percentage.

Long Positions.

(C) Where a broker or dealer is long puts or calls, deducting 50 percent of the market value of the net long put and call positions in the same options series.

Certain Security Positions With Offsetting Options.

(D)(1) Where a broker or dealer is long a put for which it has an offsetting long position in the same number of units of the same underlying instrument, deducting the percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1 of the current market value of the underlying instrument for the long offsetting position, not to exceed the out-of-the-money amount of the option. In no event shall the deduction provided by this paragraph be less than $25 for each option contract for 100 shares, provided that the minimum charge need not exceed the intrinsic value of the option.

(2) Where a broker or dealer is long a call for which it has an offsetting short position in the same number of units of the same underlying instrument, deducting the percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1 of the current market value of the underlying instrument for the short offsetting position, not to exceed the out-of-the-money amount of the option. In no event shall the deduction provided by this paragraph be less than $25 for each option contract for 100 shares, provided that the minimum charge need not exceed the intrinsic value of the option.

(3) Where a broker or dealer is short a call for which it has an offsetting long position in the same number of units of the same underlying instrument, deducting the percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1 of the current market value of the underlying instrument for the offsetting long position reduced by the short call’s intrinsic value. In no event shall the deduction provided by this paragraph be less than $25 for each option contract for 100 shares.

Certain Spread Positions.

(E)(1) Where a broker or dealer is short a listed call and is also long a listed call in the same class of options contracts and the long option expires on the same date as or subsequent to the short option, the deduction, after adjustments required in paragraph (b) of this section, shall be the amount by which the exercise value of the long call exceeds the exercise value of the short call. If the exercise value of the long call is less than or equal to the exercise value of the short call, no deduction is required.

(2) Where a broker or dealer is short a listed put and is also long a listed put in the same class of options contracts and the long option expires on the same date as or subsequent to the short option, the deduction, after the adjustments required in paragraph (b) of this section, shall be the amount by which the exercise value of the short put exceeds the exercise value of the long put. If the exercise value of the long put is equal to or greater than the exercise value of the short put, no deduction is required.
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(c) With respect to transactions involving unlisted options, every broker or dealer shall determine the value of unlisted option positions in accordance with the provision of paragraph (c)(2)(i) of § 240.15c3-1, and shall deduct the percentages of all securities positions or unlisted options in the proprietary or other accounts of the broker or dealer specified in this paragraph (c). However, where computing the deduction required for a security position as if the security position had no related unlisted option position and positions in unlisted options as if uncovered would result in a lesser deduction from net worth, the broker or dealer may compute such deductions separately.

Uncovered Calls.

(1) Where a broker or dealer is short a call, deducting 15 percent (or such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the current market value of the security underlying such option reduced by any excess of the exercise value of the call over the current market value of the underlying security. In no event shall the deduction provided by this paragraph be less than $250 for each option contract for 100 shares.

Uncovered Puts.

(2) Where a broker or dealer is short a put, deducting 15 percent (or such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the current market value of the security underlying the option reduced by any excess of the market value of the underlying security over the exercise value of the put. In no event shall the deduction provided by this paragraph be less than $250 for each option contract for 100 shares.

Covered Calls.

(3) Where a broker or dealer is short a call and long equivalent units of the underlying security, deducting 15 percent (or such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the current market value of the underlying security reduced by any excess of the current market value of the underlying security over the exercise value of the call. No reduction under this paragraph shall have the effect of increasing net capital.

Covered Puts.

(4) Where a broker or dealer is short a put and short equivalent units of the underlying security, deducting 15 percent (or such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the current market value of the underlying security reduced by any excess of the exercise value of the put over the market value of the underlying security. No such reduction shall have the effect of increasing net capital.

Conversion Accounts.

(5) Where a broker or dealer is long equivalent units of the underlying security, long a put written or endorsed by a broker or dealer and short a call in its proprietary or other accounts, deducting 5 percent (or 50 percent of such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the current market value of the underlying security.

(6) Where a broker or dealer is short equivalent units of the underlying security, long a call written or endorsed by a broker or dealer and short a put in his proprietary or other accounts, deducting 5 percent (or 50 percent of such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the market value of the underlying security.
Long Options.

(7) Where a broker or dealer is long a put or call endorsed or written by a broker or dealer, deducting 15 percent (or such other percentage required by paragraphs (c)(2)(vi) (A) through (K) of § 240.15c3-1) of the market value of the underlying security, not to exceed any value attributed to such option in paragraph (c)(2)(i) of § 240.15c3-1.

Rule 15c3-1b. Adjustments to Net Worth and Aggregate Indebtedness For Certain Commodities Transactions (Appendix B to 17 CFR 240.15c3-1).*

(a) Every broker or dealer in computing net capital pursuant to Rule 15c3-1 shall comply with the following:

(1) Where a broker or dealer has an asset or liability which is treated or defined in paragraph (c) of Rule 15c3-1, the inclusion or exclusion of all or part of such asset or liability for the computation of aggregate indebtedness and net capital shall be in accordance with paragraph (c) of Rule 15c3-1 except as specifically provided otherwise in this Appendix B. Where a commodity related asset or liability is specifically treated or defined in Commodity Futures Trading Commission Rule 1.17 and is not generally or specifically treated or defined in Rule 15c3-1 or this Appendix B, the inclusion or exclusion of all or part of such asset or liability for the computation of aggregate indebtedness and net capital shall be in accordance with Commodity Futures Trading Commission Rule 1.17.

Aggregate Indebtedness.

(2) The term “aggregate indebtedness” as defined in paragraph (c)(1) of this rule shall exclude with respect to commodity-related transactions:

(i) Indebtedness arising in connection with and advance to a non-proprietary account when such indebtedness is adequately collateralized by spot commodities eligible for delivery on a contract market and when such spot commodities are covered;

(ii) Advances received by the broker or dealer against bills of lading issued in connection with the shipment of commodities sold by the broker or dealer; and

(iii) Equity balances in the accounts of general partners.

Net Capital.

(3) In computing net capital as defined in paragraph (c)(2) of this rule, the net worth of a broker or dealer shall be adjusted as follows with respect to commodity-related transactions:

(i) Unrealized Profit or Loss For Certain Commodities Transactions.

*Effective September __, 2019, Rule 15c3-1b is amended in paragraph (a)(3)(iii)(C) by adding the phrase “cleared swap transactions or,” before “commodity futures or options transactions”, and by adding paragraph (b) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(A) Unrealized profits shall be added and unrealized losses shall be deducted in the commodities accounts of the broker or dealer, including unrealized profits and losses on fixed price commitments and forward contracts; and

(B) The value attributed to any commodity option which is not traded on a contract market shall be the difference between the option’s striking price and the market value for the physical or futures contract which is the subject of the option. In the case of a long call commodity option, if the market value for the physical or futures contract which is the subject of the option is less than the strike price of the option, it shall be given no value. In the case of a long put commodity option, if the market value for the physical commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value.

(ii) Deduct any unsecured commodity futures or option account containing a ledger balance and open trades the combination of which liquidates to a deficit or containing a debit ledger balance only: provided, however, deficits or debit ledger balances in unsecured customers’, non-customers’ and proprietary accounts, which are the subject of calls for margin or other required deposits, need not be deducted until the close of business on the business day following the date on which such deficit or debit ledger balance originated;

(iii) Deduct all unsecured receivables, advances and loans except for:

(A) Management fees receivable from commodity pools outstanding no longer than 30 days from the date they are due;

(B) Receivables from foreign clearing organizations;

*(C) Receivables from registered futures commission merchants or brokers, resulting from [*cleared swap transactions or,] commodity futures or option transactions, except those specifically excluded under paragraph (3)(ii) of this appendix. In the case of an introducing broker or an applicant for registration as an introducing broker, include 50 percent of the value of a guarantee or security deposit with a futures commission merchant which carries or intends to carry accounts for the customers of the introducing broker.

(iv) Deduct all inventories (including work in process, finished goods, raw materials and inventories held for resale) except for readily marketable spot commodities; or spot commodities which adequately collateralize indebtedness under paragraph (c)(7) of Commodity Futures Trading Commission Rule 1.17.

(v) Guarantee deposits with commodities clearing organizations are not required to be deducted from net worth.

(vi) Stock in commodities clearing organizations to the extent of its margin value is not required to be deducted from net worth.

*Effective September __, 2019, Rule 15c3-1b is amended in paragraph (a)(3)(iii)(C) by adding the phrase “cleared swap transactions or,” before “commodity futures or options transactions” as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(vii) Deduct from net worth the amount by which any advances paid by the broker or dealer on cash commodity contracts and used in computing net capital exceeds 95 percent of the market value of the commodities covered by such contracts.

(viii) Do not include equity in the commodity accounts of partners in net worth.

(ix) In the case of all inventory, fixed price commitments, and forward contracts, except for inventory and forward contracts in the inter-bank market in those foreign currencies which are purchased or sold for future delivery on or subject to the rules of a contract market and covered by an open futures contract for which there will be no charge, deduct the applicable percentage of the net position specified below:

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract or by a commodity option on a physical contract—no charge.

(B) Inventory which is covered by an open futures contract or commodity option—five percent of the market value.

(C) Inventory which is not covered—20 percent of the market value.

(D) Fixed price commitments (open purchases and sales) and forward contracts which are covered by an open futures contract or commodity option—10 percent of the market value.

(E) Fixed price commitments (open purchases and sales) and forward contracts which are not covered by an open futures contract or commodity option—20 percent of the market value.

(x) Deduct four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market.

(xi) [Reserved.]

(xii) Deduct for undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or, if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding three business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then deduct the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding three days or less to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is deducted from net worth in accordance with paragraph (a)(3)(ii) of this Appendix B, such amount shall not also be deducted under this paragraph (a)(3)(xii). In the event that an owner of a customer account has deposited an asset other than cash to margin, guarantee or secure his account, the value attributable to such asset for purposes of this paragraph shall be the lesser of: (A) the value attributable to such asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of such asset after application of the percentage deductions specified in paragraph (a)(3)(ix) of this appendix or, where appropriate, specified in paragraph (c)(2)(vi) or (c)(2)(vii) of Rule 15c3-1.

(xiii) Deduct for undermargined non-customer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or, if there are no such maintenance margin requirements, clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are no such maintenance margin
requirements or clearing organization margin requirements, then deduct the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the initial margin has been depleted by 50 percent or more. Provided, to the extent a deficit is deducted from net worth in accordance with paragraph (a)(3)(ii) of this Appendix B, such amount shall not also be deducted under this paragraph (a)(3)(xiii). In the event that an owner of a non-customer or omnibus account has deposited an asset other than cash to margin, guarantee or secure his account, the value attributable to such asset for purposes of this paragraph shall be the lesser of: (A) the value attributable to such asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of such asset after application of the percentage deductions specified in paragraph (a)(3)(ix) of this Appendix B or, where appropriate, specified in paragraph (c)(2)(vi) or (vii) of Rule 15c3-1.

(xiv) In the case of open futures contracts and granted (sold) commodity options held in proprietary accounts carried by the broker or dealer which are not covered by a position held by the broker or dealer or which are not the result of a "changer trade" made in accordance with the rules of a contract market, deduct:

(A) For a broker or dealer which is a clearing member of a contract market for the positions on such contract market cleared by such member, the applicable margin requirement of the applicable clearing organization;

(B) For a broker or dealer which is a member of a self-regulatory organization, 150 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater; or

(C) For all other brokers or dealers, 200 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater; or

(D) For open contracts or granted (sold) commodity options for which there are no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement;

Provided, the equity in any such proprietary account shall reduce the deduction required by this paragraph (a)(3)(xiv) if such equity is not otherwise includable in net capital.

(xv) In the case of a broker or dealer which is a purchaser of a commodity option which is traded on a contract market the deduction shall be the same safety factor as if the broker or dealer were the grantor of such option in accordance with paragraph (a)(3)(xiv), but in no event shall the safety factor be greater than the market value attributed to such option.

(xvi) In the case of a broker or dealer which is a purchaser of a commodity option not traded on a contract market which has value and such value is used to increase net capital, the deduction is 10 percent of the market value of the physical or futures contract which is the subject of such option but in no event more than the value attributed to such option.

(xvii) Deduct five percent of all unsecured receivables includable under paragraph (3)(iii)(C) of this appendix used by the broker or dealer in computing "net capital" and which are not receivable from: (A) a futures commission merchant registered as such with the Commodity Futures Trading Commission, or (B) a broker or dealer which is registered as such with the Securities and Exchange Commission.

(xviii) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (a)(3) of this Appendix B unless the following conditions exist:
(A) The receivable is secured by readily marketable collateral which is otherwise unencumbered and which can be readily converted into cash; provided, however, that the receivable will be considered secured only to the extent of the market value of such collateral after application of the percentage deductions specified in paragraph (a)(3)(ix) of this appendix; and

(B)(1) The readily marketable collateral is in the possession or control of the broker or dealer; or (2) The broker or dealer has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the state in which the readily marketable collateral is located.

(xix) The term “cover” for purposes of this appendix shall mean cover as defined in Commodity Futures Trading Commission Rule 1.17(j).

(xx) The term “customer” for purposes of this appendix shall mean customer as defined in Commodity Futures Trading Commission Rule 1.17(b)(2). The term “non-customer” for purposes of this appendix shall mean non-customer as defined in Commodity Futures Trading Commission Rule 1.17(b)(4).

*(b) Every broker or dealer in computing net capital pursuant to § 240.15c3-1 must comply with the following:

(1) Cleared Swaps. In the case of a cleared swap held in a proprietary account of the broker or dealer, deducting the amount of the applicable margin requirement of the derivatives clearing organization or, if the swap references an equity security index, the broker or dealer may take a deduction using the method specified in § 240.15c3-1a.

(2) Non-Cleared Swaps.

(i) Credit Default Swaps Referencing Broad-Based Security Indices. In the case of a non-cleared credit default swap for which the deductions in Appendix E of this section do not apply:

(A) Short Positions (Selling Protection). In the case of a non-cleared swap that is a short credit default swap referencing a broad-based security index, deducting the percentage of the notional amount based upon the current basis point spread of the credit default swap and the maturity of the credit default swap in accordance with the following table:

*Effective September 2019, Rule 15c3-1b is amended by adding paragraph (b) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
<table>
<thead>
<tr>
<th>Length of Time to Maturity of Credit Default Swap Contract</th>
<th>Basis Point Spread</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100 or less</td>
</tr>
<tr>
<td>Less than 12 months</td>
<td>0.67%</td>
</tr>
<tr>
<td>12 months but less than 24 months</td>
<td>1.00%</td>
</tr>
<tr>
<td>24 months but less than 36 months</td>
<td>1.33%</td>
</tr>
<tr>
<td>36 months but less than 48 months</td>
<td>2.00%</td>
</tr>
<tr>
<td>48 months but less than 60 months</td>
<td>2.67%</td>
</tr>
<tr>
<td>60 months but less than 72 months</td>
<td>3.67%</td>
</tr>
<tr>
<td>72 months but less than 84 months</td>
<td>4.67%</td>
</tr>
<tr>
<td>84 months but less than 120 months</td>
<td>5.67%</td>
</tr>
<tr>
<td>120 months and longer</td>
<td>6.67%</td>
</tr>
</tbody>
</table>

(B) Long Positions (Purchasing Protection). In the case of a non-cleared swap that is a long credit default swap referencing a broad-based security index, deducting 50 percent of the deduction that would be required by paragraph (b)(2)(i)(A) of this Appendix B if the non-cleared swap was a short credit default swap, each such deduction not to exceed the current market value of the long position.

(C) Long and Short Positions.

(1) Long and Short Credit Default Swaps. In the case of non-cleared swaps that are long and short credit default swaps referencing the same broad-based security index, have the same credit events which would trigger payment by the seller of protection, have the same basket of obligations which would determine the amount of payment by the seller of protection upon the occurrence of a credit event, that are in the same or adjacent spread category, and that are in the same or adjacent maturity category and have a maturity date within three months of the other maturity category, deducting the percentage of the notional amount specified in the higher maturity category under paragraph (b)(2)(i)(A) or (b)(2)(i)(B) of this Appendix B on the excess of the long or short position.

(2) Long Basket of Obligors and Long Credit Default Swap. In the case of a non-cleared swap that is a long credit default swap referencing a broad-based security index and the broker or dealer is long a basket of debt securities comprising all of the components of the security index, deducting 50 percent of the amount specified in § 240.15c3-1(c)(2)(vi) for the component securities, provided the broker or dealer can deliver the component securities to satisfy the obligation of the broker or dealer on the credit default swap.

(3) Short Basket of Obligors and Short Credit Default Swap. In the case of a non-cleared swap that is a short credit default swap referencing a broad-based security index.
index and the broker or dealer is short a basket of debt securities comprising all of the components of the security index, deducting the amount specified in § 240.15c3-1(c)(2)(vi) for the component securities.

(ii) All Other Swaps.

(A) In the case of a non-cleared swap that is not a credit default swap for which the deductions in Appendix E of this section do not apply, deducting the amount calculated by multiplying the notional value of the swap by the percentage specified in:

(I) Section 240.15c3-1 applicable to the reference asset if § 240.15c3-1 specifies a percentage deduction for the type of asset;

(2) 17 CFR 1.17 applicable to the reference asset if 17 CFR 1.17 specifies a percentage deduction for the type of asset and § 240.15c3-1 does not specify a percentage deduction for the type of asset; or

(3) In the case of non-cleared interest rate swap, § 240.15c3-1(c)(2)(vi)(A) based on the maturity of the swap, provided that the percentage deduction must be no less than one eighth of 1 percent of the amount of a long position that is netted against a short position in the case of a non-cleared swap with a maturity of three months or more.

(B) A broker or dealer may reduce the deduction under paragraph (b)(2)(ii)(A) by an amount equal to any reduction recognized for a comparable long or short position in the reference asset or interest rate under § 240.15c3-1 or 17 CFR 1.17.

Rule 15c3-1c. Appendix C to Rule 15c3-1. Consolidated Computations of Net Capital and Aggregate Indebtedness For Certain Subsidiaries and Affiliates.

Flow Through Capital Benefits.

(a) Every broker or dealer in computing its net capital and aggregate indebtedness pursuant to Rule 15c3-1 shall, subject to the provisions of paragraphs (b) and (d) of this appendix, consolidate in a single computation assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the broker or dealer, may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (b) below.

Required Counsel Opinions.

(b)(1) If the consolidation, provided for in paragraph (a) of this section, of any such subsidiary or affiliate results in the increase of the broker’s or dealer’s net capital and/or the decrease of the broker’s or dealer’s minimum net capital requirement under paragraph (a) of Rule 15c3-1 and an opinion of counsel described in paragraph (b)(2) of this section has not been obtained, such benefits shall not be recognized in the broker’s or dealer’s computation required by this section.

(2) Except as provided for in paragraph (b)(1) above, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the broker or dealer for which the broker or dealer can demonstrate to the satisfaction of the Commission, through the Examining Authority, by an opinion of counsel that the net asset values, or the portion thereof related to the parent’s ownership interest in the subsidiary or affiliate may be caused by the broker or dealer or a trustee appointed pursuant to the Securities Investor Protection Act of 1970 or otherwise, to be distributed to the broker or dealer within 30 calendar days. Such opinion shall also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other
parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants and governmental or regulatory authorities, who may delay or prevent such a distribution, and such other assurances as the Commission or the Examining Authority by rule or interpretation may require. Such opinion shall be current and periodically renewed in connection with the broker’s or dealer’s annual audit pursuant to Rule 17a-5 under the Securities Exchange Act of 1934 or upon any material change in circumstances.

**Principles of Consolidation.**

(c) In preparing a consolidated computation of net capital and/or aggregate indebtedness pursuant to this section, the following minimum and non-exclusive requirements shall be observed:

(1) Consolidated net worth shall be reduced by the estimated amount of any tax reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.

(2) Liabilities of a consolidated subsidiary or affiliate which are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall not be added to consolidated net worth unless such subordination extends also to the claims of present or future creditors of the parent broker or dealer and all consolidated subsidiaries.

(3) Subordinated liabilities of a consolidated subsidiary or affiliate which are consolidated in accordance with subparagraph (c)(2) above may not be prepaid, repaid or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provisions of Appendix D.

(4) Each broker or dealer included within the consolidation shall at all times be in compliance with the net capital requirement to which it is subject.

**Certain Precluded Acts.**

(d) No broker or dealer shall guarantee, endorse or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of net capital and/or aggregate indebtedness pursuant to Rule 15c3-1 or this Appendix C, except as provided in paragraph (b)(1) above.

**Rule 15c3-1d. Appendix D to Rule 15c3-1—Satisfactory Subordination Agreements.**

**Introduction.**

(a)(1) This appendix sets forth minimum and non-exclusive requirements for satisfactory subordination agreements (hereinafter “subordination agreement”). The Examining Authority may require or the broker or dealer may include such other...
provisions as deemed necessary or appropriate to the extent such provisions do not cause the subordination agreement to fail to meet the minimum requirements of this Appendix D.

Certain Definitions.

(2) For purposes of Rule 15c3-1 and this appendix:

(i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(ii) The term “subordinated loan agreement” shall mean the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(iii) The term “collateral value” of any securities pledged to secure a secured demand note shall mean the market value of such securities after giving effect to the percentage deductions set forth in paragraph (c)(2)(vi) of Rule 15c3-1, except for paragraph (c)(2)(vi)(J). In lieu of the deduction under (c)(2)(vi)(J), the broker or dealer shall reduce the market value of the securities pledged to secure the secured demand note by 30 percent.

(iv) The term “payment obligation” shall mean the obligation of a broker or dealer in respect of any subordination agreement: (A) to repay cash loaned to the broker or dealer pursuant to a subordinated loan agreement, or (B) to return a secured demand note contributed to the broker or dealer or reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note, and (C) “payment” shall mean the performance by a broker or dealer of a Payment Obligation.

(v) (A) The term “secured demand note agreement” shall mean an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a broker or dealer and the pledge of securities and/or cash with the broker or dealer as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators or assigns shall be personally liable on such note and that in the event of default the broker or dealer shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the broker or dealer to which it is contributed; provided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the Commission and to the Examining Authority for such broker or dealer.

(C) If such note is not paid upon presentment and demand as provided for therein, the broker or dealer shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the broker or dealer as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the broker or dealer shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

(D) Subject to the prior rights of the broker or dealer as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral, provided that the net proceeds of any
such sale and the cash so substituted and the securities so purchased or substituted are
held by the broker or dealer, as pledgee, and are included within the collateral to secure
payment of the secured demand note, and provided further that no such transaction
shall be permitted if, after giving effect thereto, the sum of the amount of any cash,
plus the Collateral Value of the securities, then pledged as collateral to secure the
secured demand note would be less than the unpaid principal amount of the secured
demand note.

(E) Upon payment by the lender, as distinguished from a reduction by the lender
which is provided for in subdivision (b)(6)(iii) or reduction by the broker or dealer as
provided for in subparagraph (b)(7) of this appendix, of all or any part of the unpaid
principal amount of the secured demand note, a broker or dealer shall issue to the lender
a subordinated loan agreement in the amount of such payment (or in the case of a broker
or dealer that is a partnership credit a capital account of the lender) or issue preferred or
common stock of the broker or dealer in the amount of such payment, or any combi-
nation of the foregoing, as provided for in the secured demand note agreement.

(F) The term “lender” shall mean the person who lends cash to a broker or dealer
pursuant to a subordinated loan agreement and the person who contributes a secured
demand note to a broker or dealer pursuant to a secured demand note agreement.

Minimum Requirements For Subordination Agreements.

(b)(1) Subject to paragraph (a) above, a subordination agreement shall mean
a written agreement between the broker or dealer and the lender, which: (i) has a
minimum term of one year, except for temporary subordination agreements provided
for in subparagraph (c)(5) of this appendix, and (ii) is a valid and binding obligation
enforceable in accordance with its terms (subject as to enforcement to applicable
bankruptcy, insolvency, reorganization, moratorium and other similar laws) against the
broker or dealer and the lender and their respective heirs, executors, administrators,
successors and assigns.

Specific Amount.

(2) All subordination agreements shall be for a specific dollar amount which shall
not be reduced for the duration of the agreement except by installments as specifically
provided for therein and except as otherwise provided in this appendix.

Effective Subordination.

(3) The subordination agreement shall effectively subordinate any right of the
lender to receive any payment with respect thereto, together with accrued interest or
compensation, to the prior payment or provision for payment in full of all claims of
all present and future creditors of the broker or dealer arising out of any matter oc-
curring prior to the date on which the related Payment Obligation matures consistent
with the provisions of Rule 15c3-1 and this appendix, except for claims which are the
subject of subordination agreements which rank on the same priority as or junior to the
claim of the lender under such subordination agreements.

Proceeds of Subordinated Loan Agreements.

(4) The subordinated loan agreement shall provide that the cash proceeds thereof
shall be used and dealt with by the broker or dealer as part of its capital and shall be
subject to the risks of the business.

Certain Rights of the Broker or Dealer.

(5) The subordination agreement shall provide that the broker or dealer shall have
the right to:
(i) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(ii) Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtedness of the broker or dealer; and

(iii) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

Collateral For Secured Demand Notes.

(6) Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the Collateral Value of any securities, then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the broker or dealer must immediately transmit written notice to that effect to the lender and the Examining Authority for such broker or dealer. The secured demand note agreement shall also require that following such transmittal:

(i) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the Collateral Value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

(ii) Unless additional cash or securities are pledged by the lender as provided in (i) above, the broker or dealer at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note, as may be necessary to eliminate the unpaid principal amount of the secured demand note; provided, however, that the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the Collateral Value of the remaining securities, then pledged as collateral to secure the secured demand note. The broker or dealer may not purchase for its own account any securities subject to such a sale.

(iii) The secured demand note agreement also may provide that, in lieu of the procedures specified in the provisions required by paragraph (b)(6)(ii) of this section, the lender with the prior written consent of the broker or dealer and the Examining Authority for the broker or dealer may reduce the unpaid principal amount of the secured demand note. After giving effect to such reduction, the aggregate indebtedness of the broker or dealer may not exceed 1,000 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of Rule 15c3-1, net capital may not be less than five percent of aggregate debit items computed in accordance with Rule 15c3-3a, or, if registered as a futures commission merchant, seven percent of the funds required to be segregated pursuant to the Commodity Exchange Act, and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater. No single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be
withdrawn. No Examining Authority shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, net capital would be less than 120 percent of the minimum dollar amount required by Rule 15c3-1.

Permissive Prepayments.

*(7) A broker or dealer at its option but not at the option of the lender may, if the subordination agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such Payment Obligation (hereinafter referred to as a “Prepayment”), but in no event may any Prepayment be made before the expiration of one year from the date such subordination agreement became effective. This restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (c)(5) of this Appendix D. No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 1,000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by Rule 15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of Rule 15c3-1, its net capital would be less than five percent of its aggregate debit items computed in accordance with Rule 15c3-3a or, if registered as a futures commission merchant, seven percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or its net capital would be less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of Rule 15c3-1. Notwithstanding the above, no Prepayment shall occur without the prior written approval of the Examining Authority for such broker or dealer.

*Effective September __, 2019, Rule 15c3-1d is amended by revising paragraph (b)(7) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(7) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
would exceed 1000 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of its aggregate debit items computed in accordance with § 240.15c3-3a, or if registered as a futures commission merchant, 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or its net capital would be less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of § 240.15c3-1, or if, in the case of a broker or dealer operating pursuant to paragraph (a)(10) of § 240.15c3-1, its net capital would be less than 120 percent of its minimum requirement.

*Suspended Repayment.

*(8)(i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding that are scheduled to mature on or before such Payment Obligation) either: (A) the aggregate indebtedness of the broker or dealer would exceed 1,200 percent of its net capital or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of Rule 15c3-1, its net capital would be less than five percent of aggregate debit items computed in accordance with Rule 15c3-3a or, if registered as a futures commission merchant, six percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by Rule 15c3-1 including paragraph (a)(1)(ii), if applicable. The subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of Rule 15c3-1 and Rule 15c3-ld.

*(8)(i) The Payment Obligation of the broker or dealer in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of such broker or dealer under any other subordination agreement(s) then outstanding that are scheduled to mature on or before such Payment Obligation) either (A) the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital, or in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a or, if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by Rule 15c3-1 including paragraph (a)(1)(ii), if applicable. The subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of Rule 15c3-1 and Rule 15c3-ld.

*Effective September __, 2019, Rule 15c3-1d is amended by revising paragraph (b)(8)(i) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(8)(i) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or, in the case of a broker or dealer operating pursuant to paragraph (a)(10) of §240.15c3-1, its net capital would be less than 120 percent of its minimum requirement, or (B) its net capital would be less than 120 percent of the minimum dollar amount required by §240.15c3-1 including paragraph (a)(1)(ii), if applicable. The subordination agreement may provide that if the Payment Obligation of the broker or dealer thereunder does not mature and is suspended as a result of the requirement of this paragraph (b)(8) for a period of not less than six months, the broker or dealer shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of §240.15c3-1 and §240.15c3-1d.

(ii) Whenever a subordination agreement provides that a broker or dealer shall commence a rapid and orderly liquidation, as permitted in (i) above, the date on which the liquidation commences shall be the maturity date for each subordination agreement of the broker or dealer then outstanding, but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of Rule 15c3-1 and this appendix.

**Accelerated Maturity—Obligation to Repay to Remain Subordinate.**

(9)(i) Subject to the provisions of subparagraph (b)(8) of this appendix, a subordination agreement may provide that the lender may, upon prior written notice to the broker or dealer and the Examining Authority given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the Payment Obligation of the broker or dealer, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after the giving of such notice, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of Rule 15c3-1 and this appendix.

(ii) Notwithstanding the provisions of subparagraph (b)(8) of this appendix, the Payment Obligation of the broker or dealer with respect to a subordination agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshaling of the assets and liabilities of the broker or dealer, but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of Rule 15c3-1 and this appendix.

**Accelerated Maturity of Subordination Agreements on Event of Default and Event of Acceleration—Obligation to Repay to Remain Subordinate.**

(10)(i) A subordination agreement may provide that the lender may, upon prior written notice to the broker or dealer and the Examining Authority of the broker or dealer of the occurrence of any Event of Acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the Payment Obligation of the broker or dealer, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the broker or dealer and the Examining Authority for the broker or dealer. Any subordination agreement containing such Events of Acceleration may also provide, that if upon such accelerated maturity date the Payment Obligation of the broker or dealer is suspended as required by subparagraph (b)(8) of this appendix and liquidation of the broker or dealer has not commenced on or prior to such accelerated maturity date, then notwithstanding subparagraph (b)(8) of this appendix the Payment Obligation of the broker or dealer with
respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the Payment Obligations of the broker or dealer with respect to all other subordination agreements then outstanding shall also mature at the same time, but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this appendix. Events of Acceleration which may be included in a subordination agreement complying with this subparagraph (b)(10) shall be limited to:

(A) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;

(B) Failure to pay when due other money obligations of a specified material amount;

(C) Discovery that any material, specified representation or warranty of the broker or dealer which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made;

(D) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the broker or dealer agree: (1) is a significant indication that the financial position of the broker or dealer has changed materially and adversely from agreed upon specified norms; (2) could materially and adversely affect the ability of the broker or dealer to conduct its business as conducted on the date the subordination agreement was made; or (3) is a significant change in the senior management of the broker or dealer or in the general business conducted by the broker or dealer from that which was obtained on the date the subordination agreement became effective;

(E) Any continued failure to perform agreed covenants included in the subordination agreement relating to the conduct of the business of the broker or dealer or relating to the maintenance and reporting of its financial position; and

(ii) Notwithstanding the provisions of subparagraph (b)(8) of this appendix, a subordination agreement may provide that, if liquidation of the business of the broker or dealer has not already commenced, the Payment Obligation of the broker or dealer shall mature, together with accrued interest or compensation, upon the occurrence of an Event of Default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the broker or dealer has not already commenced, the rapid and orderly liquidation of the business of the broker or dealer shall then commence upon the happening of an Event of Default. Any subordination agreement which so provides for maturity of the Payment Obligation upon the occurrence of an Event of Default shall also provide that the date on which such Event of Default occurs shall, if liquidation of the broker or dealer has not already commenced, be the date on which the Payment Obligations of the broker or dealer with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this appendix. Events of Default which may be included in a subordination agreement shall be limited to:

(A) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the broker or dealer are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the broker or dealer to obtain the dismissal of such application within 30 days;

*(B) The aggregate indebtedness of the broker or dealer exceeding 1,500 percent of its net capital or, in the case of a broker or dealer which has elected to operate under

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*Effective September __, 2019, Rule 15c3-1d is amended by revising paragraph (b)(10)(ii)(B) as part of amendments establishing capital, margin, and segregation requirements for security-
paragraph (a)(1)(ii) of Rule 15c3-1, its net capital computed in accordance therewith is less than two percent of its aggregate debit items computed in accordance with Rule 15c3-3a or, if registered as a futures commission merchant, four percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

*(B) The aggregate indebtedness of the broker or dealer exceeding 1500 percent of its net capital or, in the case of a broker or dealer that has elected to operate under paragraph (a)(1)(ii) of § 240.15c3-1, its net capital computed in accordance therewith is less than two percent of its aggregate debit items computed in accordance with § 240.15c3-3a or, if registered as a futures commission merchant, four percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or, in the case of a broker or dealer operating pursuant to paragraph (a)(10) of § 240.15c3-1, its net capital is less than its minimum requirement, throughout a period of 15 consecutive business days, commencing on the day the broker or dealer first determines and notifies the Examining Authority for the broker or dealer, or the Examining Authority or the Commission first determines and notifies the broker or dealer of such fact;

(C) The Commission shall revoke the registration of the broker or dealer;

(D) The Examining Authority shall suspend (and not reinstate within 10 days) or revoke the broker’s or dealer’s status as a member thereof;

(E) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the broker or dealer.

A subordination agreement which contains any of the provisions permitted by this subparagraph (b)(10) shall not contain the provision otherwise permitted by clause (i) of subparagraph (b)(9).

based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(10)(ii)(B) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date**: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

*Effective September __, 2019, Rule 15c3-1d is amended by revising paragraph (b)(10)(ii)(B) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (b)(10)(ii)(B) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. **Compliance Date**: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
Brokers and Dealers Carrying the Accounts of Specialists and Market Makers in Listed Options.

(11) A subordination agreement which becomes effective on or after August 1, 1977 in favor of a broker or dealer who guarantees, endorses, carries or clears specialist or market maker transactions in options listed on a national securities exchange or facility of a national securities association shall provide that reduction, prepayment or repayment of the unpaid principal amount thereof, pursuant to those terms of the agreement required or permitted by paragraph (b)(6)(iii), (b)(7) or (b)(8)(i) of this appendix, shall not occur in contravention of paragraph (a)(6)(v), (a)(7)(iv) or (c)(2)(x)(B)(1) or Rule 15c3-1 insofar as they apply to such broker or dealer.

(c) Miscellaneous Provisions.

Prohibited Cancellation.

(1) The subordination agreement shall not be subject to cancellation by either party; no Payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of Rules 15c3-1 and 15c3-1d.

Notice of Maturity or Accelerated Maturity.

*(2) Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer, either the aggregate indebtedness of the broker or dealer would exceed 1,200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by Rule 15c3-1, or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of Rule 15c3-1, its net capital would be less than five percent of aggregate debit items computed in accordance with Rule 15c3-3a, or, if registered as a futures commission merchant, six percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of Rule 15c3-1.

*(2) Every broker or dealer shall immediately notify the Examining Authority for such broker or dealer if, after giving effect to all Payments of Payment Obligations under subordination agreements then outstanding that are then due or mature within the following six months without reference to any projected profit or loss of the broker or dealer either the aggregate indebtedness of the broker or dealer would exceed 1200 percent of its net capital or its net capital would be less than 120 percent of the minimum dollar amount required by § 240.15c3-1, or, in the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital would be less than 5 percent of aggregate debit items computed in accordance with § 240.15c3-3a, or,
if registered as a futures commission merchant, 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of § 240.15c3-1, or, in the case of a broker or dealer operating pursuant to paragraph (a)(10) of § 240.15c3-1, its net capital would be less than 120 percent of its minimum requirement.

Certain Legends.

(3) If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

Legal Title to Securities.

(4) All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the broker or dealer or the name of its nominee or custodian.

Temporary and Revolving Subordination Agreements.

(5)(i) For the purpose of enabling a broker or dealer to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of Rule 15c3-1, a broker or dealer shall be permitted, on no more than three occasions in any 12-month period, to enter into a subordination agreement on a temporary basis that has a stated term of no more than 45 days from the date such subordination agreement became effective. This temporary relief shall not apply to a broker or dealer if, within the preceding 30 calendar days, it has given notice pursuant to Rule 17a-11, or if immediately prior to entering into such subordination agreement either:

(A) The aggregate indebtedness of the broker or dealer exceeds 1,000 percent of its net capital or its net capital is less than 120 percent of the minimum dollar amount required by Rule 15c3-1, or

*(B) In the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of Rule 15c3-1, its net capital is less than five percent of aggregate debits computed in accordance with Rule 15c3-1, or, if registered as a futures commission merchant, less than seven percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section, or

*(B) In the case of a broker or dealer operating pursuant to paragraph (a)(1)(ii) of § 240.15c3-1, its net capital is less than 5 percent of aggregate debits computed in

*Effective September __, 2019, Rule 15c3-1d is amended by revising paragraph (c)(5)(i)(B) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (c)(5)(i)(B) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
accordance with § 240.15c3-1, or, if registered as a futures commission merchant, less than 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or less than 120 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section, or, in the case of a broker or dealer operating pursuant to paragraph (a)(10) of § 240.15c3-1, its net capital would be less than 120 percent of its minimum requirement, or

(C) The amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of Rule 15c3-1. Such temporary subordination agreement shall be subject to all other provisions of this Appendix D.

(ii) A broker or dealer shall be permitted to enter into a revolving subordinated loan agreement which provides for prepayment within less than one year of all or any portion of the Payment Obligation thereunder at the option of the broker or dealer upon the prior written approval of the Examining Authority for the broker or dealer. The Examining Authority however, shall not approve any prepayment if:

(A) After giving effect thereto (and to all Payments of Payment Obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the broker or dealer, either aggregate indebtedness of the broker or dealer would exceed 900 percent of its net capital or its net capital would be less than 200 percent of the minimum dollar amount required by Rule 15c3-1 or, in the case of a broker or dealer operating pursuant to paragraph (a)(1) of Rule 15c3-1, its net capital would be less than six percent of aggregate debit items computed in accordance with Rule 15c3-3a, or, if registered as a futures commission merchant, 10 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and the regulations thereunder (less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, each such deduction not to exceed the amount of funds in the option customer’s account), if greater, or its net capital would be less than 200 percent of the minimum dollar amount required by paragraph (a)(1)(ii) of this section; or

(B) Pre-tax losses during the latest three-month period equalled more than 15 percent of current excess net capital.

Any subordination agreement entered into pursuant to this subsection (ii) shall be subject to all the other provisions of this appendix. Any such subordination agreement shall not be considered equity for purposes of subsection (d) of Rule 15c3-1, despite the length of the initial term of the loan.

Filing.

(6)(i) Two copies of any proposed subordination agreement (including non-conforming subordination agreements) shall be filed at least 10 days prior to the proposed execution date of the agreement with the Commission’s Regional Office for the region in which the broker or dealer maintains its principal place of business or at such other time as the Regional Office for good cause shall accept such filing. Copies of the proposed agreement shall also be filed with the Examining Authority in such quantities and at such time as the Examining Authority may require. The broker or dealer shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the broker or dealer, and whether the broker or dealer carried funds or securities for the lender at or about the time the
proposed agreement was so filed. All agreements shall be examined by the Commis-
sion’s Regional Office or the Examining Authority with whom such agreement is
required to be filed prior to their becoming effective. No proposed agreement shall be a
satisfactory subordination agreement for the purposes of this section unless and until
the Examining Authority has found the agreement acceptable and such agreement has
become effective in the form found acceptable.

(ii) The broker or dealer need not file with the Regional Office for the region in
which the broker or dealer maintains its principal place of business (if a Regional
Office is not its Examining Authority) copies of any proposed subordination agreement
or the statement described above if the Examining Authority for that broker or dealer
has consented to file with the Commission periodic reports (not less than monthly)
summarizing for the period, on a firm-by-firm basis, the subordination agreements it
has approved for that period. Such reports should include at the minimum, the amount
of the loan and its duration, the name of the lender, and the business relationship of the
lender to the broker or dealer.

Subordination Agreements in Effect Prior to Adoption.

(7) Any subordination agreement which has been entered into prior to December
20, 1978 and which has been deemed to be satisfactorily subordinated pursuant to
Rule 15c3-1 as in effect prior to December 20, 1978 shall continue to be deemed a
satisfactory subordination agreement until the maturity of such agreement. Provided,
that no renewal of an agreement which provides for automatic or optional renewal by
the broker or dealer or lender shall be deemed to be a satisfactory subordination
agreement unless such renewed agreement meets the requirements of this appendix
within six months from December 20, 1978. Provided further, that all subordination
agreements must meet the requirements of this appendix within five years of

Rule 15c3-1e. Deductions For Market and Credit Risk For Certain Brokers
or Dealers (Appendix E to 17 CFR 240.15c3-1).*

**Preliminary Note:** Appendices E and G to the net capital rule set forth a
program that allows a broker or dealer to use an alternative approach to computing

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*Effective September __, 2019, Rule 15c3-1e is amended by redesignating the Preliminary
Note as an undesignated introductory paragraph and revising it, revising the introductory text of
paragraph (a) [before the first colon], redesignating paragraph (a)(7) as paragraph (a)(7)(i) and
adding new paragraph (a)(7)(ii), revising paragraph (c)(3), revising paragraph (c)(4)(v)(B), de-
leting paragraph (c)(4)(v)(D) and redesignating paragraphs (c)(4)(v)(E) through (H) as paragraphs
(c)(4)(v)(D) through (G), revising paragraph (e) by replacing the phrase “§ 240.15c3-1(c)(2)(vi),
(c)(2)(vii), and (c)(2)(iv), as appropriate” with “§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), (c)(2)(iv),
(c)(2)(viii)(A) and (c)(2)(xv)(B), as appropriate, and § 240.15c-1b, as appropriate”, and revising
paragraph (e)(1) as part of amendments establishing capital, margin, and segregation requirements
for security-based swap dealers and major security-based swap participants and capital and
segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC
Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule
amendments and new rules is 18 months after the later of: (1) the effective date of the final rules
establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the
effective date of the final rules addressing the cross-border application of certain security-based
swap requirements.

**Effective September __, 2019, Rule 15c3-1e is amended by redesignating the Preliminary
Note as an undesignated introductory paragraph and revising it as part of amendments establishing
capital, margin, and segregation requirements for security-based swap dealers and major security-
based swap participants and capital and segregation requirements for broker-dealers under Title
VII of the Dodd-Frank Act. The amended version of the undesignated introductory paragraph
net capital deductions, subject to the conditions described in the Appendices, including supervision of the broker’s or dealer’s ultimate holding company under the program. The program is designed to reduce the likelihood that financial and operational weakness in the holding company will destabilize the broker or dealer, or the broader financial system. The focus of this supervision of the ultimate holding company is its financial and operational condition and its risk management controls and methodologies.

*Appendices E and G to the net capital rule set forth a program that allows a broker or dealer to use an alternative approach to computing net capital deductions, subject to the conditions described in the Appendices, including supervision of the broker’s or dealer’s ultimate holding company under the program. The program is designed to reduce the likelihood that financial and operational weakness in the holding company will destabilize the broker or dealer, or the broader financial system. The focus of this supervision of the ultimate holding company is its financial and operational condition and its risk management controls and methodologies.

*Application

**(a) A broker or dealer may apply to the Commission for authorization to compute deductions for market risk pursuant to this Appendix E in lieu of computing deductions pursuant to §§ 240.15c3-1(c)(2)(vi) and (c)(2)(vii) and to compute deductions for credit risk pursuant to this Appendix E on credit exposures arising from transactions in derivatives instruments (if this Appendix E is used to calculate deductions for market risk on these instruments) in lieu of computing deductions pursuant to § 240.15c3-1(c)(2)(iv):

**(a) A broker or dealer may apply to the Commission for authorization to compute deductions for market risk pursuant to this Appendix E in lieu of computing deductions pursuant to §§ 240.15c3-1(c)(2)(vi) and (c)(2)(vii), and § 240.15c3-1b, and to compute follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

*Effective September __, 2019, Rule 15c3-1e is amended by redesignating the Preliminary Note as an undesignated introductory paragraph and revising it as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of the undesignated introductory paragraph follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1e is amended by revising the introductory text of paragraph (a) [before the first colon] as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of the introductory text of paragraph (a) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
deductions for credit risk pursuant to this Appendix E on credit exposures arising from transactions in derivatives instruments (if this Appendix E is used to calculate deductions for market risk on these instruments) in lieu of computing deductions pursuant to § 240.15c3-1(c)(2)(iv), (c)(2)(xv)(A), and (c)(2)(xv)(B):

(1) A broker-dealer shall submit the following information to the Commission with its application:

(i) An executive summary of the information provided to the Commission with its application and an identification of the ultimate holding company of the broker or dealer;

(ii) A comprehensive description of the internal risk management control system of the broker or dealer and how that system satisfies the requirements set forth in § 240.15c3-4;

(iii) A list of the categories of positions that the broker or dealer holds in its proprietary accounts and a brief description of the methods that the broker or dealer will use to calculate deductions for market and credit risk on those categories of positions;

(iv) A description of the mathematical models to be used to price positions and to compute deductions for market risk, including those portions of the deductions attributable to specific risk, if applicable, and deductions for credit risk; a description of the creation, use, and maintenance of the mathematical models; a description of the broker’s or dealer’s internal risk management controls over those models, including a description of each category of persons who may input data into the models; if a mathematical model incorporates empirical correlations across risk categories, a description of the process for measuring correlations; a description of the backtesting procedures the broker or dealer will use to backtest the mathematical model used to calculate maximum potential exposure; a description of how each mathematical model satisfies the applicable qualitative and quantitative requirements set forth in paragraph (d) of this Appendix E; and a statement describing the extent to which each mathematical model used to compute deductions for market and credit risk will be used as part of the risk analyses and reports presented to senior management;

(v) If the broker or dealer is applying to the Commission for approval to use scenario analysis to calculate deductions for market risk for certain positions, a list of those types of positions, a description of how those deductions will be calculated using scenario analysis, and an explanation of why each scenario analysis is appropriate to calculate deductions for market risk on those types of positions;

(vi) A description of how the broker or dealer will calculate current exposure;

(vii) A description of how the broker or dealer will determine internal credit ratings of counterparties and internal credit risk weights of counterparties, if applicable;

(viii) A written undertaking by the ultimate holding company of the broker or dealer, if it is not an ultimate holding company that has a principal regulator, in a form acceptable to the Commission, signed by a duly authorized person at the ultimate holding company, to the effect that, as a condition of Commission approval of the application of the broker or dealer to compute deductions for market and credit risk pursuant to this Appendix E, the ultimate holding company agrees to:

(A) Comply with all applicable provisions of this Appendix E;

(B) Comply with all applicable provisions of § 240.15c3-1g;

(C) Comply with the provisions of § 240.15c3-4 with respect to an internal risk management control system for the affiliate group as though it were an OTC derivatives dealer with respect to all of its business activities, except that paragraphs (c)(5)(xiii), (c)(5)(xiv), (d)(8), and (d)(9) of § 240.15c3-4 shall not apply;
(D) As part of the internal risk management control system for the affiliate group, establish, document, and maintain procedures for the detection and prevention of money laundering and terrorist financing;

(E) Permit the Commission to examine the books and records of the ultimate holding company and any of its affiliates, if the affiliate is not an entity that has a principal regulator;

(F) If the disclosure to the Commission of any information required as a condition for the broker or dealer to compute deductions for market and credit risk pursuant to this Appendix E could be prohibited by law or otherwise, cooperate with the Commission, to the extent permissible, including by describing any secrecy laws or other impediments that could restrict the ability of material affiliates to provide information on their operations or activities and by discussing the manner in which the ultimate holding company and the broker or dealer propose to provide the Commission with adequate information or assurances of access to information;

(G) Make available to the Commission information about the ultimate holding company or any of its material affiliates that the Commission finds is necessary to evaluate the financial and operational risk within the ultimate holding company and its material affiliates and to evaluate compliance with the conditions of eligibility of the broker or dealer to compute deductions to net capital under the alternative method of this Appendix E;

(H) Make available examination reports of principal regulators for those affiliates of the ultimate holding company that are not subject to Commission examination; and

(I) Acknowledge that, if the ultimate holding company fails to comply in a material manner with any provision of its undertaking, the Commission may, in addition to any other conditions necessary or appropriate in the public interest or for the protection of investors, increase the multiplication factors the ultimate holding company uses to calculate allowances for market and credit risk, as defined in § 240.15c3-1g(a)(2) and (a)(3) or impose any condition with respect to the broker or dealer listed in paragraph (e) of this Appendix E; and

(ix) A written undertaking by the ultimate holding company of the broker or dealer, if the ultimate holding company has a principal regulator, in a form acceptable to the Commission, signed by a duly authorized person at the ultimate holding company, to the effect that, as a condition of Commission approval of the application of the broker or dealer to compute deductions for market and credit risk pursuant to this Appendix E, the ultimate holding company agrees to:

(A) Comply with all applicable provisions of this Appendix E;

(B) Comply with all applicable provisions of § 240.15c3-1g;

(C) Make available to the Commission information about the ultimate holding company that the Commission finds is necessary to evaluate the financial and operational risk within the ultimate holding company and to evaluate compliance with the conditions of eligibility of the broker or dealer to compute net capital under the alternative method of this Appendix E; and

(D) Acknowledge that if the ultimate holding company fails to comply in a material manner with any provision of its undertaking, the Commission may, in addition to any other conditions necessary or appropriate in the public interest or for the protection of investors, impose any condition with respect to the broker or dealer listed in paragraph (e) of this Appendix E;
(2) As a condition of Commission approval, the ultimate holding company of the broker or dealer, if it is not an ultimate holding company that has a principal regulator, shall include the following information with the application:

(i) A narrative description of the business and organization of the ultimate holding company;

(ii) An alphabetical list of the affiliates of the ultimate holding company (referred to as the “affiliate group,” which shall include the ultimate holding company), with an identification of the financial regulator, if any, that regulates the affiliate, and a designation of the members of the affiliate group that are material to the ultimate holding company (“material affiliates”);

(iii) An organizational chart that identifies the ultimate holding company, the broker or dealer, and the material affiliates;

(iv) Consolidated and consolidating financial statements of the ultimate holding company as of the end of the quarter preceding the filing of the application;

(v) Sample computations for the ultimate holding company of allowable capital and allowances for market risk, credit risk, and operational risk, determined pursuant to § 240.15c3-1g(a)(1)–(a)(4);

(vi) A list of the categories of positions that the affiliate group holds in its proprietary accounts and a brief description of the method that the ultimate holding company proposes to use to calculate allowances for market and credit risk, pursuant to § 240.15c3-1g(a)(2) and (a)(3), on those categories of positions;

(vii) A description of the mathematical models to be used to price positions and to compute the allowance for market risk, including those portions of the allowance attributable to specific risk, if applicable, and the allowance for credit risk; a description of the creation, use, and maintenance of the mathematical models; a description of the ultimate holding company’s internal risk management controls over those models, including a description of each category of persons who may input data into the models; if a mathematical model incorporates empirical correlations across risk categories, a description of the process for measuring correlations; a description of the backtesting procedures the ultimate holding company will use to backtest the mathematical model used to calculate maximum potential exposure; a description of how each mathematical model satisfies the applicable qualitative and quantitative requirements set forth in paragraph (d) of this Appendix E; a statement describing the extent to which each mathematical model used to compute allowances for market and credit risk is used as part of the risk analyses and reports presented to senior management; and a description of any positions for which the ultimate holding company proposes to use a method other than VaR to compute an allowance for market risk and a description of how that allowance would be determined;

(viii) A description of how the ultimate holding company will calculate current exposure;

(ix) A description of how the ultimate holding company will determine the credit risk weights of counterparties and internal credit ratings of counterparties, if applicable;

(x) A description of how the ultimate holding company will calculate an allowance for operational risk under § 240.15c3-1g(a)(4);

(xi) For each instance in which a mathematical model used by the broker or dealer to calculate a deduction for market risk or to calculate maximum potential exposure for a particular product or counterparty differs from the mathematical model used by the ultimate holding company to calculate an allowance for market risk or to calculate
maximum potential exposure for that same product or counterparty, a description of the difference(s) between the mathematical models;

(xii) A comprehensive description of the risk management control system for the affiliate group that the ultimate holding company has established to manage affiliate group-wide risk, including market, credit, liquidity and funding, legal and compliance, and operational risks, and how that system satisfies the requirements of § 240.15c3-4; and

(xiii) Sample risk reports that are provided to the persons at the ultimate holding company who are responsible for managing group-wide risk and that will be provided to the Commission pursuant to § 240.15c3-1g(b)(1)(i)(H);

(3) As a condition of Commission approval, the ultimate holding company of the broker or dealer, if the ultimate holding company has a principal regulator, shall include the following information with the broker’s or dealer’s application:

(i) A narrative description of the business and organization of the ultimate holding company;

(ii) An alphabetical list of the affiliates of the ultimate holding company (referred to as the “affiliate group,” which shall include the ultimate holding company), with an identification of the financial regulator, if any, that regulates the affiliate, and a designation of those affiliates that are material to the ultimate holding company (“material affiliates”);

(iii) An organizational chart that identifies the ultimate holding company, the broker or dealer, and the material affiliates;

(iv) Consolidated and consolidating financial statements of the ultimate holding company as of the end of the quarter preceding the filing of the application;

(v) The most recent capital measurements of the ultimate holding company, as reported to its principal regulator, calculated in accordance with the standards published by the Basel Committee on Banking Supervision, as amended from time to time;

(vi) For each instance in which a mathematical model to be used by the broker or dealer to calculate a deduction for market risk or to calculate maximum potential exposure for a particular product or counterparty differs from the mathematical model used by the ultimate holding company to calculate an allowance for market risk or to calculate maximum potential exposure for that same product or counterparty, a description of the difference(s) between the mathematical models; and

(vii) Sample risk reports that are provided to the persons at the ultimate holding company who are responsible for managing group-wide risk and that will be provided to the Commission under § 240.15c3-1g(b)(1)(i)(H);

(4) The application of the broker or dealer shall be supplemented by other information relating to the internal risk management control system, mathematical models, and financial position of the broker or dealer or the ultimate holding company of the broker or dealer that the Commission may request to complete its review of the application;

(5) The application shall be considered filed when received at the Commission’s principal office in Washington, DC. A person who files an application pursuant to this section for which it seeks confidential treatment may clearly mark each page or segregable portion of each page with the words “Confidential Treatment Requested.” All information submitted in connection with the application will be accorded confidential treatment, to the extent permitted by law;

(6) If any of the information filed with the Commission as part of the application of the broker or dealer is found to be or becomes inaccurate before the Commission
approves the application, the broker or dealer must notify the Commission promptly and provide the Commission with a description of the circumstances in which the information was found to be or has become inaccurate along with updated, accurate information;

*(7) [(i)] The Commission may approve the application or an amendment to the application, in whole or in part, subject to any conditions or limitations the Commission may require, if the Commission finds the approval to be necessary or appropriate in the public interest or for the protection of investors, after determining, among other things, whether the broker or dealer has met the requirements of this Appendix E and is in compliance with other applicable rules promulgated under the Act and by self-regulatory organizations, and whether the ultimate holding company of the broker or dealer is in compliance with the terms of its undertakings, as provided to the Commission;

*(ii) The Commission may approve the temporary use of a provisional model in whole or in part, subject to any conditions or limitations the Commission may require, if:

(A) The broker or dealer has a complete application pending under this section;

(B) The use of the provisional model has been approved by:

(1) A prudential regulator;

(2) The Commodity Futures Trading Commission or a futures association registered with the Commodity Futures Trading Commission under section 17 of the Commodity Exchange Act;

(3) A foreign financial regulatory authority that administers a foreign financial regulatory system with capital requirements that the Commission has found are eligible for substituted compliance under § 240.3a71-6 if the provisional model is used for the purposes of calculating net capital;

(4) A foreign financial regulatory authority that administers a foreign financial regulatory system with margin requirements that the Commission has found are eligible for substituted compliance under § 240.3a71-6 if the provisional model is used for the purposes of calculating initial margin pursuant to § 240.18a-3; or

(5) Any other foreign supervisory authority that the Commission finds has approved and monitored the use of the provisional model through a process comparable to the process set forth in this section.

(8) A broker or dealer shall amend its application to calculate certain deductions for market and credit risk under this Appendix E and submit the amendment to the Commission for approval before it may change materially a mathematical model used to calculate market or credit risk or before it may change materially its internal risk management control system;

*Effective September __, 2019, Rule 15c3-1e is amended by redesignating paragraph (a)(7) as paragraph (a)(7)(i) and adding new paragraph (a)(7)(ii) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(9) As a condition to the broker’s or dealer’s calculation of deductions for market and credit risk under this Appendix E, an ultimate holding company that does not have a principal regulator shall submit to the Commission, as an amendment to the broker’s or dealer’s application, any material changes to a mathematical model or other methods used to calculate allowances for market, credit, and operational risk, and any material changes to the internal risk management control system for the affiliate group. The ultimate holding company must submit these material changes to the Commission before making them;

(10) As a condition for the broker or dealer to compute deductions for market and credit risk under this Appendix E, the broker or dealer agrees that:

(i) It will notify the Commission 45 days before it ceases to compute deductions for market and credit risk under this Appendix E; and

(ii) The Commission may determine by order that the notice will become effective after a shorter or longer period of time if the broker or dealer consents or if the Commission determines that a shorter or longer period of time is necessary or appropriate in the public interest or for the protection of investors; and

(11) Notwithstanding paragraph (a)(10) of this section, the Commission, by order, may revoke a broker’s or dealer’s exemption that allows it to use the market risk standards of this Appendix E to calculate deductions for market risk, instead of the provisions of § 240.15c3-1(c)(2)(vi) and (c)(2)(vii), and the exemption to use the credit risk standards of this Appendix E to calculate deductions for credit risk on certain credit exposures arising from transactions in derivatives instruments, instead of the provisions of § 240.15c3-1(c)(2)(iv), if the Commission finds that such exemption is no longer necessary or appropriate in the public interest or for the protection of investors. In making its finding, the Commission will consider the compliance history of the broker or dealer related to its use of models, the financial and operational strength of the broker or dealer and its ultimate holding company, the broker’s or dealer’s compliance with its internal risk management controls, and the ultimate holding company’s compliance with its undertakings.

**Market Risk**

(b) A broker or dealer whose application, including amendments, has been approved under paragraph (a) of this Appendix E shall compute a deduction for market risk in an amount equal to the sum of the following:

(1) For positions for which the Commission has approved the broker’s or dealer’s use of value-at risk (“VaR”) models, the VaR of the positions multiplied by the appropriate multiplication factor determined according to paragraph (d)(1)(iii) of this Appendix E, except that the initial multiplication factor shall be three, unless the Commission determines, based on a review of the broker’s or dealer’s application or an amendment to the application under paragraph (a) of this Appendix E, including a review of its internal risk management control system and practices and VaR models, that another multiplication factor is appropriate;

(2) For positions for which the VaR model does not incorporate specific risk, a deduction for specific risk to be determined by the Commission based on a review of the broker’s or dealer’s application or an amendment to the application under paragraph (a) of this Appendix E, including a review of its internal risk management control system and practices and VaR models, that another multiplication factor is appropriate;

(3) For positions for which the Commission has approved the broker’s or dealer’s application to use scenario analysis, the greatest loss resulting from a range of adverse movements in relevant risk factors, prices, or spreads designed to represent a negative movement greater than, or equal to, the worst ten-day movement over the four years preceding calculation of the greatest loss, or some multiple of the greatest loss based
on the liquidity of the positions subject to scenario analysis. If historical data is insufficient, the deduction shall be the largest loss within a three standard deviation movement in those risk factors, prices, or spreads over a ten-day period, multiplied by an appropriate liquidity adjustment factor. Irrespective of the deduction otherwise indicated under scenario analysis, the resulting deduction for market risk must be at least $25 per 100 share equivalent contract for equity positions, or one-half of one percent of the face value of the contract for all other types of contracts, even if the scenario analysis indicates a lower amount. A qualifying scenario must include the following:

(i) A set of pricing equations for the positions based on, for example, arbitrage relations, statistical analysis, historic relationships, merger evaluation, or fundamental valuation of an offering of securities;

(ii) Auxiliary relationships mapping risk factors to prices; and

(iii) Data demonstrating the effectiveness of the scenario in capturing market risk, including specific risk; and

(4) For all remaining positions, the deductions specified in §§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), and applicable appendices to § 240.15c3-1.

Credit Risk

(c) A broker or dealer whose application, including amendments, has been approved under paragraph (a) of this Appendix E shall compute a deduction for credit risk on transactions in derivative instruments (if this Appendix E is used to calculate a deduction for market risk on those instruments) in an amount equal to the sum of the following:

(1) A counterparty exposure charge in an amount equal to the sum of the following:

(i) The net replacement value in the account of each counterparty that is insolvent, or in bankruptcy, or that has senior unsecured long-term debt in default; and

(ii) For a counterparty not otherwise described in paragraph (c)(1)(i) of this Appendix E, the credit equivalent amount of the broker’s or dealer’s exposure to the counterparty, as defined in paragraph (c)(4)(i) of this Appendix E, multiplied by the credit risk weight of the counterparty, as defined in paragraph (c)(4)(vi) of this Appendix E, multiplied by 8%;

(2) A concentration charge by counterparty in an amount equal to the sum of the following:

(i) For each counterparty with a credit risk weight of 20% or less, 5% of the amount of the current exposure to the counterparty in excess of 5% of the tentative net capital of the broker or dealer;

(ii) For each counterparty with a credit risk weight of greater than 20% but less than 50%, 20% of the amount of the current exposure to the counterparty in excess of 5% of the tentative net capital of the broker or dealer; and

(iii) For each counterparty with a credit risk weight of greater than 50%, 50% of the amount of the current exposure to the counterparty in excess of 5% of the tentative net capital of the broker or dealer; and
(3) A portfolio concentration charge of 100% of the amount of the broker’s or dealer’s aggregate current exposure for all counterparties in excess of 50% of the tentative net capital of the broker or dealer; 

(4) Terms.

(i) The credit equivalent amount of the broker’s or dealer’s exposure to a counterparty is the sum of the broker’s or dealer’s maximum potential exposure to the counterparty, as defined in paragraph (c)(4)(ii) of this Appendix E, multiplied by the appropriate multiplication factor, and the broker’s or dealer’s current exposure to the counterparty, as defined in paragraph (c)(4)(iii) of this Appendix E. The broker or dealer must use the multiplication factor determined according to paragraph (d)(1)(v) of this Appendix E, except that the initial multiplication factor shall be one, unless the Commission determines, based on a review of the broker’s or dealer’s application or an amendment to the application approved under paragraph (a) of this Appendix E, including a review of its internal risk management control system and practices and VaR models, that another multiplication factor is appropriate;

(ii) The maximum potential exposure is the VaR of the counterparty’s positions with the broker or dealer, after applying netting agreements with the counterparty meeting the requirements of paragraph (c)(4)(iv) of this Appendix E, taking into account the value of collateral from the counterparty held by the broker or dealer in accordance with paragraph (c)(4)(v) of this Appendix E, and taking into account the current replacement value of the counterparty’s positions with the broker or dealer;

(iii) The current exposure of the broker or dealer to a counterparty is the current replacement value of the counterparty’s positions with the broker or dealer, after applying netting agreements with the counterparty meeting the requirements of paragraph (c)(4)(iv) of this Appendix E and taking into account the value of collateral from the counterparty held by the broker or dealer in accordance with paragraph (c)(4)(v) of this Appendix E;

(iv) Netting Agreements. A broker or dealer may include the effect of a netting agreement that allows the broker or dealer to net gross receivables from and gross payables to a counterparty upon default of the counterparty if:

(A) The netting agreement is legally enforceable in each relevant jurisdiction, including in insolvency proceedings;

(B) The gross receivables and gross payables that are subject to the netting agreement with a counterparty can be determined at any time; and

(C) For internal risk management purposes, the broker-dealer monitors and controls its exposure to the counterparty on a net basis;

*Effective September __, 2019, Rule 15c3-1e is amended by revising paragraph (c)(3) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (c)(3) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(v) Collateral. When calculating maximum potential exposure and current exposure to a counterparty, the fair market value of collateral pledged and held may be taken into account provided:

(A) The collateral is marked to market each day and is subject to a daily margin maintenance requirement;

*(B) The collateral is subject to the broker’s or dealer’s physical possession or control;

*(B)(1) The collateral is subject to the broker’s or dealer’s physical possession or control and may be liquidated promptly by the firm without intervention by any other party; or

(2) The collateral is held by an independent third-party custodian that is a bank as defined in section 3(a)(6) of the Act or a registered U.S. clearing organization or depository that is not affiliated with the counterparty or, if the collateral consists of foreign securities or currencies, a supervised foreign bank, clearing organization, or depository that is not affiliated with the counterparty and that customarily maintains custody of such foreign securities or currencies;

(C) The collateral is liquid and transferable;

**(D) The collateral may be liquidated promptly by the firm without intervention by any other party;

**(E) [**(D)] The collateral agreement is legally enforceable by the broker or dealer against the counterparty and any other parties to the agreement;

**(F) [**(E)] The collateral does not consist of securities issued by the counterparty or a party related to the broker or dealer or to the counterparty;

**(G) [**(F)] The Commission has approved the broker’s or dealer’s use of a VaR model to calculate deductions for market risk for the type of collateral in accordance with this Appendix E; and

**(H) [**(G)] The collateral is not used in determining the credit rating of the counterparty;

*Effective September __, 2019, Rule 15c3-1e is amended by revising paragraph (c)(4)(v)(B) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph (c)(4)(v)(B) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-1e is amended by deleting paragraph (c)(4)(v)(D) and redesignating paragraphs (c)(4)(v)(E) through (H) as paragraphs (c)(4)(v)(D) through (G) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
Credit Risk Weights of Counterparties. A broker or dealer that computes its deductions for credit risk pursuant to this Appendix E shall apply a credit risk weight for transactions with a counterparty of either 20%, 50%, or 150% based on an internal credit rating the broker or dealer determines for the counterparty.

(A) As part of its initial application or in an amendment, the broker or dealer may request Commission approval to apply a credit risk weight of either 20%, 50%, or 150% based on internal calculations of credit ratings, including internal estimates of the maturity adjustment. Based on the strength of the broker’s or dealer’s internal credit risk management system, the Commission may approve the application. The broker or dealer must make and keep current a record of the basis for the credit rating of each counterparty;

(B) For the portion of a current exposure covered by a written guarantee where that guarantee is an unconditional and irrevocable guarantee of the due and punctual payment and performance of the obligation and the broker or dealer can demand immediate payment from the guarantor after any payment is missed without having to make collection efforts, the broker or dealer may substitute the credit risk weight of the guarantor for the credit risk weight of the counterparty; and

(C) As part of its initial application or in an amendment, the broker or dealer may request Commission approval to reduce deductions for credit risk through the use of credit derivatives.

VaR Models

(d) To be approved, each VaR model must meet the following minimum qualitative and quantitative requirements:

1. Qualitative Requirements.

(i) The VaR model used to calculate market or credit risk for a position must be integrated into the daily internal risk management system of the broker or dealer;

(ii) The VaR model must be reviewed both periodically and annually. The periodic review may be conducted by the broker’s or dealer’s internal audit staff, but the annual review must be conducted by a registered public accounting firm, as that term is defined in section 2(a)(12) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.); and

(iii) For purposes of computing market risk, the broker or dealer must determine the appropriate multiplication factor as follows:

(A) Beginning three months after the broker or dealer begins using the VaR model to calculate market risk, the broker or dealer must conduct backtesting of the model by comparing its actual daily net trading profit or loss with the corresponding VaR measure generated by the VaR model, using a 99 percent, one-tailed confidence level with price changes equivalent to a one business-day movement in rates and prices, for each of the past 250 business days, or other period as may be appropriate for the first year of its use;

(B) On the last business day of each quarter, the broker or dealer must identify the number of backtesting exceptions of the VaR model, that is, the number of business days in the past 250 business days, or other period as may be appropriate for the first year of its use, for which the actual net trading loss, if any, exceeds the corresponding VaR measure; and

(C) The broker or dealer must use the multiplication factor indicated in Table 1 of this Appendix E in determining its market risk until it obtains the next quarter’s backtesting results;
(iv) For purposes of incorporating specific risk into a VaR model, a broker or dealer must demonstrate that it has methodologies in place to capture liquidity, event, and default risk adequately for each position. Furthermore, the models used to calculate deductions for specific risk must:

(A) Explain the historical price variation in the portfolio;

(B) Capture concentration (magnitude and changes in composition);

(C) Be robust to an adverse environment; and

(D) Be validated through backtesting; and

(v) For purposes of computing the credit equivalent amount of the broker’s or dealer’s exposures to a counterparty, the broker or dealer must determine the appropriate multiplication factor as follows:

(A) Beginning three months after it begins using the VaR model to calculate maximum potential exposure, the broker or dealer must conduct backtesting of the model by comparing, for at least 80 counterparties with widely varying types and sizes of positions with the firm, the ten-business day change in its current exposure to the counterparty based on its positions held at the beginning of the ten-business day period with the corresponding ten-business day maximum potential exposure for the counterparty generated by the VaR model;

(B) As of the last business day of each quarter, the broker or dealer must identify the number of backtesting exceptions of the VaR model, that is, the number of ten-business day periods in the past 250 business days, or other period as may be appropriate for the first year of its use, for which the change in current exposure to a counterparty exceeds the corresponding maximum potential exposure; and

(C) The broker or dealer will propose, as part of its application, a schedule of multiplication factors, which must be approved by the Commission based on the number of backtesting exceptions of the VaR model. The broker or dealer must use the multiplication factor indicated in the approved schedule in determining the credit equivalent amount of its exposures to a counterparty until it obtains the next quarter’s backtesting results, unless the Commission determines, based on, among other relevant factors, a review of the broker’s or dealer’s internal risk management control system, including a review of the VaR model, that a different adjustment or other action is appropriate;
(2) Quantitative Requirements.

(i) For purposes of determining market risk, the VaR model must use a 99 percent, one-tailed confidence level with price changes equivalent to a ten business-day movement in rates and prices;

(ii) For purposes of determining maximum potential exposure, the VaR model must use a 99 percent, one-tailed confidence level with price changes equivalent to a one-year movement in rates and prices; or based on a review of the broker’s or dealer’s procedures for managing collateral and if the collateral is marked to market daily and the broker or dealer has the ability to call for additional collateral daily, the Commission may approve a time horizon of not less than ten business days;

(iii) The VaR model must use an effective historical observation period of at least one year. The broker or dealer must consider the effects of market stress in its construction of the model. Historical data sets must be updated at least monthly and reassessed whenever market prices or volatilities change significantly; and

(iv) The VaR model must take into account and incorporate all significant, identifiable market risk factors applicable to positions in the accounts of the broker or dealer, including:

(A) Risks arising from the non-linear price characteristics of derivatives and the sensitivity of the market value of those positions to changes in the volatility of the derivatives’ underlying rates and prices;

(B) Empirical correlations with and across risk factors or, alternatively, risk factors sufficient to cover all the market risk inherent in the positions in the proprietary or other trading accounts of the broker or dealer, including interest rate risk, equity price risk, foreign exchange risk, and commodity price risk;

(C) Spread risk, where applicable, and segments of the yield curve sufficient to capture differences in volatility and imperfect correlation of rates along the yield curve for securities and derivatives that are sensitive to different interest rates; and

(D) Specific risk for individual positions.

Additional Conditions

*(e) As a condition for the broker or dealer to use this Appendix E to calculate certain of its capital charges, the Commission may impose additional conditions on the broker or dealer, which may include, but are not limited to restricting the broker’s or dealer’s business on a product-specific, category-specific, or general basis; submitting to the Commission a plan to increase the broker’s or dealer’s net capital or tentative net capital; filing more frequent reports with the Commission; modifying the broker’s or dealer’s internal risk management control procedures; or computing the broker’s or dealer’s deductions for market and credit risk in accordance with § 240.15c3-1(c)(2)(vi), as appropriate.”

*Effective September __, 2019, Rule 15c3-1e is amended by revising paragraph (e) by replacing the phrase “§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), and (c)(2)(iv), as appropriate” with “§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), (c)(2)(iv), (c)(2)(xv)(A) and (c)(2)(xv)(B), as appropriate, and § 240.15e-1b, as appropriate” as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(c)(2)(vii), and (c)(2)(iv), as appropriate [*§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), (c)(2)(iv),
(c)(2)(xv)(A) and (c)(2)(xv)(B), as appropriate, and § 240.15c-1b [sic], as appropriate]. If
it is not an ultimate holding company that has a principal regulator, the Commission also
may require, as a condition of continuation of the exemption, the ultimate holding
company of the broker or dealer to file more frequent reports or to modify its group-wide
internal risk management control procedures. If the Commission finds it is necessary or
appropriate in the public interest or for the protection of investors, the Commission may
impose additional conditions on either the broker-dealer, or the ultimate holding com-
pany, if it is an ultimate holding company that does not have a principal regulator, if:

**(1) The broker or dealer is required by § 240.15c3-1(a)(7)(ii) to provide notice to
the Commission that the broker’s or dealer’s tentative net capital is less than $5 billion;

**(1) The broker or dealer is required by § 240.15c3-1(a)(7)(ii) to provide notice to
the Commission that the broker’s or dealer’s tentative net capital is less than $6 billion;

(2) The broker or dealer or the ultimate holding company of the broker or dealer
fails to meet the reporting requirements set forth in § 240.17a-5 or 240.15c3-1g(b), as
applicable;

(3) Any event specified in § 240.17a-11 occurs;

(4) There is a material deficiency in the internal risk management control system or
in the mathematical models used to price securities or to calculate deductions for
market and credit risk or allowances for market and credit risk, as applicable, of the
broker or dealer or the ultimate holding company of the broker or dealer;

(5) The ultimate holding company of the broker or dealer fails to comply with its
undertakings that the broker or dealer has filed with its application pursuant to para-
graph (a)(1)(viii) or (a)(1)(ix) of this Appendix E;

(6) The broker or dealer fails to comply with this Appendix E; or

(7) The Commission finds that imposition of other conditions is necessary or ap-
propriate in the public interest or for the protection of investors.

*Effective September __, 2019, Rule 15c3-1e is amended by revising paragraph (e) by re-
placing the phrase “§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), and (c)(2)(iv), as appropriate” with
“§ 240.15c3-1(c)(2)(vi), (c)(2)(vii), (c)(2)(iv), (c)(2)(xv)(A) and (c)(2)(xv)(B), as appropriate, and
§ 240.15c-1b, as appropriate” as part of amendments establishing capital, margin, and seg-
gregation requirements for security-based swap dealers and major security-based swap participants
and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank
the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final
rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the
effective date of the final rules addressing the cross-border application of certain security-based
swap requirements.

**Effective September __, 2019, Rule 15c3-1e is amended by revising paragraph (e)(1) as part
of amendments establishing capital, margin, and segregation requirements for security-based
swap dealers and major security-based swap participants and capital and segregation requirements
for broker-dealers under Title VII of the Dodd-Frank Act. The amended version of paragraph
(e)(1) follows the unamended version. See SEC Release No. 34-86175; June 21, 2019. Compli-
ance Date: The compliance date for the rule amendments and new rules is 18 months after the later
of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements
for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border
application of certain security-based swap requirements.
Rule 15c3-1f. Appendix F to Rule 15c3-1. Optional Market and Credit Risk Requirements For OTC Derivatives Dealers.

Application Requirements

(a) An OTC derivatives dealer may apply to the Commission for authorization to compute capital charges for market and credit risk pursuant to this Appendix F in lieu of computing securities haircuts pursuant to §240.15c3-1(c)(2)(vi).

(1) An OTC derivatives dealer’s application shall contain the following information:

(i) Executive Summary. An OTC derivatives dealer shall include in its application an Executive Summary of information provided to the Commission.

(ii) Description of Methods For Computing Market Risk Charges. An OTC derivatives dealer shall provide a description of all statistical models used for pricing OTC derivative instruments and for computing value-at-risk (“VAR”), a description of the applicant’s controls over those models, and a statement regarding whether the firm has developed its own internal VAR models. If the OTC derivatives dealer’s VAR model incorporates empirical correlations across risk categories, the dealer shall describe its process for measuring correlations and describe the qualitative and quantitative aspects of the model which at a minimum must adhere to the criteria set forth in paragraph (e) of this Appendix F. The application shall further state whether the OTC derivatives dealer intends to use an alternative method for computing its market risk charge for equity instruments and, if applicable, a description of how its own theoretical pricing model contains the minimum pricing factors set forth in Appendix A (§240.15c3-1a). The application shall also describe any category of securities having no ready market or any category of debt securities which are below investment grade for which the OTC derivatives dealer wishes to use its VAR model to calculate its market risk charge or for which it wishes to use an alternative method for computing this charge and a description of how those charges would be determined.

(iii) Internal Risk Management Control Systems. An OTC derivatives dealer shall provide a comprehensive description of its internal risk management control systems and how those systems adhere to the requirements set forth in §240.15c3-4(a) through (d).

(2) The Commission may approve the application after reviewing the application to determine whether the OTC derivatives dealer:

(i) Has adopted internal risk management control systems that meet the requirements set forth in §240.15c3-4; and

(ii) Has adopted a VAR model that meets the requirements set forth in paragraphs (e)(1) and (e)(2) of this Appendix F.

(3) If the OTC derivatives dealer materially amends its VAR model or internal risk management control systems as described in its application, including any material change in the categories of non-marketable securities that it wishes to include in its VAR model, the dealer shall file an application describing the changes which must be approved by the Commission before the changes may be implemented. After reviewing the application for changes to the dealer’s VAR model or internal risk management control systems to determine whether, with the changes, the OTC derivatives dealer’s VAR model and internal risk management control systems would meet the requirements set forth in this Appendix F and §240.15c3-4, the Commission may approve the application.

(4) The applications provided for in this paragraph (a) shall be considered filed when received at the Commission’s principal office in Washington, D.C. All applications filed pursuant to this paragraph (a) shall be deemed to be confidential.
Compliance With § 240.15c3-4

(b) An OTC derivatives dealer must be in compliance in all material respects with § 240.15c3-4 regarding its internal risk management control systems in order to be in compliance with § 240.15c3-1.

Market Risk

(c) An OTC derivatives dealer electing to apply this Appendix F shall compute a capital charge for market risk which shall be the aggregate of the charges computed below:

(1) **Value-at-Risk.** An OTC derivatives dealer shall deduct from net worth an amount for market risk for eligible OTC derivative instruments and other positions in its proprietary or other accounts equal to the VAR of these positions obtained from its proprietary VAR model, multiplied by the appropriate multiplication factor in paragraph (e)(1)(iv)(C) of this Appendix F. The OTC derivatives dealer may not elect to calculate its capital charges under this paragraph (c)(1) until its application to use the VAR model has been approved by the Commission.

(2) **Alternative Method For Equities.** An OTC derivatives dealer may elect to use this alternative method to calculate its market risk for equity instruments, including OTC options, upon approval by the Commission on application by the dealer. Under this alternative method, the deduction for market risk must be the amount computed pursuant to Appendix A to Rule 15c3-1 (§ 240.15c3-1a). In this computation, the OTC derivatives dealer may use its own theoretical pricing model provided that it contains the minimum pricing factors set forth in Appendix A.

(3) **Non-Marketable Securities.** An OTC derivatives dealer may not use a VAR model to determine a capital charge for any category of securities having no ready market or any category of debt securities which are below investment grade or any derivative instrument based on the value of these categories of securities, unless the Commission has granted, pursuant to paragraph (a)(1) of this Appendix F, its application to use its VAR model for any such category of securities. The dealer in any event may apply, pursuant to paragraph (a)(1) of this Appendix F, for an alternative treatment for any such category of securities, rather than calculate the market risk capital charge for such category of securities under § 240.15c3-1(c)(2)(vi) and (vii).

(4) **Residual Positions.** To the extent that a position has not been included in the calculation of the market risk charge in paragraphs (c)(1) through (c)(3) of this section, the market risk charge for the position shall be computed under § 240.15c3-1(c)(2)(vi).

Credit Risk

(d) The capital charge for credit risk arising from an OTC derivatives dealer’s transactions in eligible OTC derivative instruments shall be:

(1) The net replacement value in the account of a counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) that is insolvent, or in bankruptcy, or that has senior unsecured long-term debt in default;

(2) As to a counterparty not otherwise described in paragraph (d)(1) of this section, the net replacement value in the account of the counterparty (including the effect of legally enforceable netting agreements and the application of liquid collateral) multiplied by 8%, and further multiplied by a counterparty factor of 20%, 50%, or 100% based on an internal credit rating the OTC derivatives dealer determines for the counterparty; and
(3) A concentration charge where the net replacement value in the account of any one counterparty (other than a counterparty described in paragraph (d)(1) of this section) exceeds 25% of the OTC derivatives dealer’s tentative net capital, calculated as follows:

(i) For counterparties for which an OTC derivatives dealer assigns an internal rating for senior unsecured long-term debt or commercial paper that would apply a 20% counterparty factor under paragraph (d)(2) of this section, 5% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer’s tentative net capital;

(ii) For counterparties for which an OTC derivatives dealer assigns an internal rating for senior unsecured long-term debt that would apply a 50% counterparty factor under paragraph (d)(2) of this section, 20% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer’s tentative net capital;

(iii) For counterparties for which an OTC derivatives dealer assigns an internal rating for senior unsecured long-term debt that would apply a 100% counterparty factor under paragraph (d)(2) of this section, 50% of the amount of the net replacement value in excess of 25% of the OTC derivatives dealer’s tentative net capital.

(4) Counterparties may be rated by the OTC derivatives dealer, or by an affiliated bank or affiliated broker-dealer of the OTC derivatives dealer, upon approval by the Commission on application by the OTC derivatives dealer. Based on the strength of the OTC derivatives dealer’s internal credit risk management system, the Commission may approve the application. The OTC derivatives dealer must make and keep current a record of the basis for the credit rating for each counterparty.

VAR Models

(e) An OTC derivatives dealer’s VAR model must meet the following qualitative and quantitative requirements:

(1) Qualitative Requirements. An OTC derivatives dealer applying this Appendix F must have a VAR model that meets the following minimum qualitative requirements:

(i) The OTC derivatives dealer’s VAR model must be integrated into the firm’s daily risk management process;

(ii) The OTC derivatives dealer must conduct appropriate stress tests of the VAR model, and develop appropriate procedures to follow in response to the results of such tests;

(iii) The OTC derivatives dealer must conduct periodic reviews (which may be performed by internal audit staff) of its VAR model. The OTC derivatives dealer’s VAR model also must be subject to annual reviews conducted by independent public accountants; and

(iv) The OTC derivatives dealer must conduct backtesting of the VAR model pursuant to the following procedures:

(A) Beginning one year after the OTC derivatives dealer begins using its VAR model to calculate its net capital, the OTC derivatives dealer must conduct backtesting by comparing each of its most recent 250 business days’ actual net trading profit or loss with the corresponding daily VAR measures generated for determining market risk capital charges and calibrated to a one-day holding period and a 99 percent, one-tailed confidence level;

(B) Once each quarter, the OTC derivatives dealer must identify the number of exceptions, that is, the number of business days for which the actual daily net trading loss, if any, exceeded the corresponding daily VAR measure; and
(C) An OTC derivatives dealer must use the multiplication factor indicated in Table 1 of this Appendix F in determining its capital charge for market risk until it obtains the next quarter’s backtesting results, unless the Commission determines that a different adjustment or other action is appropriate.

<table>
<thead>
<tr>
<th>Number of Exceptions</th>
<th>Multiplication Factor</th>
</tr>
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<tbody>
<tr>
<td>4 or fewer</td>
<td>3.00</td>
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<tr>
<td>5</td>
<td>3.40</td>
</tr>
<tr>
<td>6</td>
<td>3.50</td>
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<td>7</td>
<td>3.65</td>
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<td>8</td>
<td>3.75</td>
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<tr>
<td>9</td>
<td>3.85</td>
</tr>
<tr>
<td>10 or more</td>
<td>4.00</td>
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</tbody>
</table>

(2) Quantitative Requirements. An OTC derivatives dealer applying this Appendix F must have a VAR model that meets the following minimum quantitative requirements:

(i) The VAR measures must be calculated on a daily basis using a 99 percent, one-tailed confidence level with a price change equivalent to a ten-business day movement in rates and prices;

(ii) The effective historical observation period for VAR measures must be at least one year, and the weighted average time lag of the individual observations cannot be less than six months. Historical data sets must be updated at least every three months and reassessed whenever market prices or volatilities are subject to large changes;

(iii) The VAR measures must include the risks arising from the non-linear price characteristics of options positions and the sensitivity of the market value of the positions to changes in the volatility of the underlying rates or prices. An OTC derivatives dealer must measure the volatility of options positions by different maturities;

(iv) The VAR measures may incorporate empirical correlations within and across risk categories, provided that the OTC derivatives dealer has described its process for measuring correlations in its application to apply this Appendix F and the Commission has approved its application. In the event that the VAR measures do not incorporate empirical correlations across risk categories, the OTC derivatives dealer must add the separate VAR measures for the four major risk categories in paragraph (e)(2)(v) of this Appendix F to determine its aggregate VAR measure; and

(v) The OTC derivatives dealer’s VAR model must use risk factors sufficient to measure the market risk inherent in all covered positions. The risk factors must address, at a minimum, the following major risk categories: interest rate risk, equity price risk, foreign exchange rate risk, and commodity price risk. For material exposures in the major currencies and markets, modeling techniques must capture, at a minimum, spread risk and must incorporate enough segments of the yield curve to capture differences in volatility and less-than-perfect correlation of rates along the yield curve. An OTC derivatives dealer must provide the Commission with evidence that the OTC derivatives dealer’s VAR model takes account of specific risk in positions, including specific equity risk, if the OTC derivatives dealer intends to utilize its VAR model to compute capital charges for equity price risk.
Rule 15c3-1g. Conditions For Ultimate Holding Companies of Certain Brokers or Dealers (Appendix G to 17 CFR 240.15c3-1).*

As a condition for a broker or dealer to compute certain of its deductions to capital in accordance with § 240.15c3-1e, pursuant to its undertaking, the ultimate holding company of the broker or dealer shall:

**Conditions Regarding Computation of Allowable Capital and Risk Allowances**

(a) If it is not an ultimate holding company that has a principal regulator, as that term is defined in § 240.15c3-1(c)(13), calculate allowable capital and allowances for market, credit, and operational risk on a consolidated basis as follows:

1. **Allowable Capital.** The ultimate holding company must compute allowable capital as the sum of:

   (i) Common shareholders’ equity on the consolidated balance sheet of the holding company less:

   (A) Goodwill;

   (B) Deferred tax assets, except those permitted for inclusion in Tier 1 capital by the Board of Governors of the Federal Reserve System (“Federal Reserve”) (12 CFR 225, Appendix A);

   (C) Other intangible assets; and

   (D) Other deductions from common stockholders’ equity as required by the Federal Reserve in calculating Tier 1 capital (as defined in 12 CFR 225, Appendix A);

   (ii) Cumulative and non-cumulative preferred stock, except that the amount of cumulative preferred stock may not exceed 33% of the items included in allowable capital pursuant to paragraph (a)(1)(i) of this Appendix G, excluding cumulative preferred stock, provided that:

   (A) The stock does not have a maturity date;

   (B) The stock cannot be redeemed at the option of the holder of the instrument;

   (C) The stock has no other provisions that will require future redemption of the issue; and

   (D) The issuer of the stock can defer or eliminate dividends;

   (iii) The sum of the following items on the consolidated balance sheet, to the extent that the sum does not exceed the sum of the items included in allowable capital pursuant to paragraphs (a)(1)(i) and (ii) of this Appendix G:

   (A) Cumulative preferred stock in excess of the 33% limit specified in paragraph (a)(1)(ii) of this Appendix G and subject to the conditions of paragraphs (a)(1)(ii)(A) through (D) of this Appendix G;

   (B) Subordinated debt if the original weighted average maturity of the subordinated debt is at least five years; each subordinated debt instrument states clearly on its face that repayment of the debt is not protected by any Federal agency or the Securities

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*Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraphs (b)(1)(i)(A), (b)(1)(ii)(A), (b)(1)(ii)(E), (b)(2)(i)(A), and (b)(2)(i)(D) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
Rule 15c3-1g

Investor Protection Corporation; the subordinated debt is unsecured and subordinated in right of payment to all senior indebtedness of the ultimate holding company; and the subordinated debt instrument permits acceleration only in the event of bankruptcy or reorganization of the ultimate holding company under Chapters 7 (liquidation) and 11 (reorganization) of the U.S. Bankruptcy Code; and

(C) As part of the broker’s or dealer’s application to calculate deductions for market and credit risk under § 240.15c3-1e, an ultimate holding company may request to include, for a period of three years after adoption of this Appendix G, long-term debt that has an original weighted average maturity of at least five years and that cannot be accelerated, except upon the occurrence of certain events as the Commission may approve. As part of a subsequent amendment to the broker’s or dealer’s application, the broker or dealer may request permission for the ultimate holding company to include long-term debt that meets these criteria in allowable capital for up to an additional two years; and

(iv) Hybrid capital instruments that are permitted for inclusion in Tier 2 capital by the Federal Reserve (as defined in 12 CFR 225, Appendix A);

(2) Allowance For Market Risk. The ultimate holding company shall compute an allowance for market risk for all proprietary positions, including debt instruments, equity instruments, commodity instruments, foreign exchange contracts, and derivative contracts, as the aggregate of the following:

(i) Value at Risk. The VaR of its positions, multiplied by the appropriate multiplication factor as set forth in § 240.15c3-1e(d). The VaR of the positions must be obtained using approved VaR models meeting the applicable qualitative and quantitative requirements of § 240.15c3-1e(d); and

(ii) Alternative Method. For positions for which there does not exist adequate historical data to support a VaR model, the ultimate holding company must propose a model that produces a suitable allowance for market risk for those positions;

(3) Allowance For Credit Risk. The ultimate holding company shall compute an allowance for credit risk for certain assets on the consolidated balance sheet and certain off-balance sheet items, including loans and loan commitments, exposures due to derivatives contracts, structured financial products, and other extensions of credit, and credit substitutes as follows:

(i) By multiplying the credit equivalent amount of the ultimate holding company’s exposure to the counterparty, as defined in paragraphs (a)(3)(i)(A), (B) and (C) of this Appendix G, by the appropriate credit risk weight, as defined in paragraph (a)(3)(i)(F) of this Appendix G, of the asset, off-balance sheet item, or counterparty, then multiplying that product by 8%, in accordance with the following:

(A) For certain loans and loan commitments, the credit equivalent amount is determined by multiplying the nominal amount of the contract by the following credit conversion factors:

(1) 0% credit conversion factor for loan commitments that:

(i) May be unconditionally cancelled by the lender; or

(ii) May be cancelled by the lender due to credit deterioration of the borrower;

(2) 20% credit conversion factor for:

(i) Loan commitments of less than one year; or

(ii) Short-term self-liquidating trade related contingencies, including letters of credit;
(3) 50% credit conversion factor for loan commitments with an original maturity of greater than one year that contain transaction contingencies, including performance bonds, revolving underwriting facilities, note issuance facilities and bid bonds; and

(4) 100% credit conversion factor for bankers’ acceptances, stand-by letters of credit, and forward purchases of assets, and similar direct credit substitutes;

(B) For derivatives contracts and for repurchase agreements, reverse repurchase agreements, stock lending and borrowing, and similar collateralized transactions, the credit equivalent amount is the sum of the ultimate holding company’s maximum potential exposure to the counterparty, as defined in paragraph (a)(3)(i)(E) of this Appendix G, multiplied by the appropriate multiplication factor, and the ultimate holding company’s current exposure to the counterparty, as defined in paragraph (a)(3)(i)(D) of this Appendix G. The ultimate holding company must use the multiplication factor determined according to § 240.15c3-1e(d)(1)(v), except that the initial multiplication factor shall be one, unless the Commission determines, based on a review of the group-wide internal risk management control system and practices, including a review of the VaR models, that another multiplication factor is appropriate;

(C) The credit equivalent amount for other assets shall be the asset’s book value on the ultimate holding company’s consolidated balance sheet or other amount as determined according to the standards published by the Basel Committee on Banking Supervision, as amended from time to time;

(D) The current exposure is the current replacement value of a counterparty’s positions, after applying netting agreements with that counterparty meeting the requirements of § 240.15c3-1e(c)(4)(iv) and taking into account the value of collateral from the counterparty in accordance with § 240.15c3-1e(c)(4)(v);

(E) The maximum potential exposure is the VaR of the counterparty’s positions with the member of the affiliate group, after applying netting agreements with the counterparty meeting the requirements of paragraph (c)(4)(iv) of § 240.15c3-1e, taking into account the value of collateral from the counterparty held by the member of the affiliate in accordance with paragraph (c)(4)(v) of § 240.15c3-1e, and taking into account the current replacement value of the counterparty’s positions with the member of the affiliate group, except that for repurchase agreements, reverse repurchase agreements, stock lending and borrowing, and similar collateralized transactions, maximum potential exposure must be calculated using a time horizon of not less than five days;

(F) Credit ratings and credit risk weights shall be determined according to the provisions of paragraphs (c)(4)(vi)(A) and (c)(4)(vi)(B) of § 240.15c3-1e, respectively;

(G) As part of the broker’s or dealer’s initial application or in an amendment, the ultimate holding company may request Commission approval to reduce allowances for credit risk through the use of credit derivatives;

(H) For the portion of a current exposure covered by a written guarantee, where that guarantee is an unconditional and irrevocable guarantee of the due and punctual payment and performance of the obligation and the ultimate holding company or member of the affiliate group can demand payment after any payment is missed without having to make collection efforts, the ultimate holding company or member of the affiliate group may substitute the credit risk weight of the guarantor for the credit risk weight of the counterparty; or

(ii) As part of the broker’s or dealer’s initial application or in an amendment to the application, the ultimate holding company may request Commission approval to use a method of calculating credit risk that is consistent with standards published by the Basel Committee on Banking Supervision in International Convergence of
Capital Measurement and Capital Standards (July 1988), as amended from time to time; and

(4) Allowance For Operational Risk. The ultimate holding company shall compute an allowance for operational risk in accordance with the standards published by the Basel Committee on Banking Supervision, as amended from time to time.

Conditions Regarding Reporting Requirements

(b) File reports with the Commission in accordance with the following:

(1) If it is not an ultimate holding company that has a principal regulator, as that term is defined in § 240.15c3-1(c)(13), the ultimate holding company shall file with the Commission:

(i) A report as of the end of each month, filed not later than 30 calendar days after the end of the month. A monthly report need not be filed for a month-end that coincides with a fiscal quarter-end. The monthly report shall include:

*(A) A consolidated balance sheet and income statement (including notes to the financial statements) for the ultimate holding company and statements of allowable capital and allowances for market, credit, and operational risk computed pursuant to paragraph (a) of this appendix G, except that the consolidated balance sheet and income statement for the first month of the fiscal year may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker’s or dealer’s application under § 240.15c3-1e(a)). A statement of comprehensive income (as defined in § 210.1-02 of Regulation S-X of this chapter) shall be included in place of an income statement, if required by the applicable generally accepted accounting principles.

(B) A graph reflecting, for each business line, the daily intra-month VaR;

(C) Consolidated credit risk information, including aggregate current exposure and current exposures (including commitments) listed by counterparty for the 15 largest exposures;

(D) The 10 largest commitments listed by counterparty;

(E) Maximum potential exposure listed by counterparty for the 15 largest exposures;

(F) The aggregate maximum potential exposure;

(G) A summary report reflecting the geographic distribution of the ultimate holding company’s exposures on a consolidated basis for each of the top ten countries to which it is exposed (by residence of the main operating group of the counterparty); and

(H) Certain regular risk reports provided to the persons responsible for managing group-wide risk as the Commission may request from time to time;

(ii) A quarterly report as of the end of each fiscal quarter, filed not later than 35 calendar days after the end of the quarter. The quarterly report shall include, in addition to the information contained in the monthly report as required by paragraph (b)(1)(i) of this Appendix G, the following:

*Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraph (b)(1)(i)(A) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
*(A) Consolidating balance sheets and income statements for the ultimate holding company. The consolidating balance sheet must provide information regarding each material affiliate of the ultimate holding company in a separate column, but may aggregate information regarding members of the affiliate group that are not material affiliates into one column. Statements of comprehensive income (as defined in § 210.1-02 of Regulation S-X) shall be included in place of an income statement, if required by the applicable generally accepted accounting principles;

(B) The results of backtesting of all internal models used to compute allowable capital and allowances for market and credit risk indicating, for each model, the number of backtesting exceptions;

(C) A description of all material pending legal or arbitration proceedings, involving either the ultimate holding company or any of its affiliates, that are required to be disclosed by the ultimate holding company under generally accepted accounting principles;

(D) The aggregate amount of unsecured borrowings and lines of credit, segregated into categories, scheduled to mature within twelve months from the most recent fiscal quarter as to each material affiliate; and

**(E) For a quarter-end that coincides with the ultimate holding company’s fiscal year-end, the ultimate holding company need not include consolidated and consolidating balance sheets and income statements (or statements of comprehensive income, as applicable) in its quarterly reports. The consolidating balance sheet and income statement (or statement of comprehensive income, as applicable) for the quarter-end that coincides with the fiscal year-end may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker’s or dealer’s application under § 240.15c3-1e(a));

(iii) An annual audited report as of the end of the ultimate holding company’s fiscal year, filed not later than 65 calendar days after the end of the fiscal year. The annual report shall include:

(A) Consolidated financial statements for the ultimate holding company audited by a registered public accounting firm, as that term is defined in Section 2(a)(12) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.). The audit shall be made in accordance with the rules promulgated by the Public Company Accounting Oversight Board. The audited financial statements must include a supporting schedule containing statements of allowable capital and allowances for market, credit, and operational risk computed pursuant to paragraph (a) of this Appendix G; and

(B) A supplemental report entitled “Accountant’s Report on Internal Risk Management Control System” prepared by a registered public accounting firm, as that term is defined in Section 2(a)(12) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), indicating the results of the registered public accounting firm’s review of the ultimate holding company’s compliance with § 240.15c3-4. The procedures are to be performed and the report is to be prepared in accordance with procedures agreed upon by the ultimate holding company and the registered public accounting firm conducting

*Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraph (b)(1)(ii)(A) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.

**Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraph (b)(1)(ii)(E) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
the review. The agreed upon procedures are to be performed and the report is to be prepared in accordance with rules promulgated by the Public Company Accounting Oversight Board. The ultimate holding company must file, before commencement of the initial review, the procedures agreed upon by the ultimate holding company and the registered public accounting firm with the Division of Market Regulation, Office of Financial Responsibility, at Commission’s principal office in Washington, DC. Before commencement of each subsequent review, the ultimate holding company must notify the Commission of any changes in the procedures;

(iv) An organizational chart, as of the ultimate holding company’s fiscal year-end, concurrently with its quarterly report for the quarter-end that coincides with its fiscal year-end. The ultimate holding company must provide quarterly updates of the organizational chart if a material change in the information provided to the Commission has occurred;

(2) If the ultimate holding company is an entity that has a principal regulator, as that term is defined in § 240.15c3-1(c)(13), the ultimate holding company must file with the Commission:

(i) A quarterly report as of the end of each fiscal quarter, filed not later than 35 calendar days after the end of the quarter, or a later time to which the Commission may agree upon application. The quarterly report shall include:

* (A) Consolidated (including notes to the financial statements) and consolidating balance sheets and income statements for the ultimate holding company. Statements of comprehensive income (as defined in § 210.1-02 of Regulation S-X) shall be included in place of income statements, if required by the applicable generally accepted accounting principles;

(B) Its most recent capital measurements computed in accordance with the standards published by the Basel Committee on Banking Supervision, as amended from time to time, as reported to its principal regulator;

(C) Certain regular risk reports provided to the persons responsible for managing group-wide risk as the Commission may request from time to time; and

**(D) For a quarter-end that coincides with the ultimate holding company’s fiscal year-end, the ultimate holding company need not include consolidated and consolidating balance sheets and income statements (or statements of comprehensive income, as applicable) in its quarterly reports. The consolidating balance sheet and income statement (or statement of comprehensive income, as applicable) for the quarter-end that coincides with the fiscal year-end may be filed at a later time to which the Commission agrees (when reviewing the affiliated broker’s or dealer’s application under § 240.15c3-1e(a)).

(ii) An annual audited report as of the end of the ultimate holding company’s fiscal year, filed with the Commission when required to be filed by any regulator;

(3) The reports that the ultimate holding company must file in accordance with paragraph (b) of this Appendix G will be considered filed when two copies are received

*Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraph (b)(2)(i)(A) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.

**Effective November 5, 2018, Rule 15c3-1g is amended by revising paragraph (b)(2)(i)(D) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
at the Commission’s principal office in Washington, DC. A person who files reports pursuant to this section for which he or she seeks confidential treatment may clearly mark each page or segregable portion of each page with the words “Confidential Treatment Requested.” The copies shall be addressed to the Division of Market Regulation, Risk Assessment Group; and

(4) The reports that the ultimate holding company must file with the Commission in accordance with paragraph (b) of this Appendix G will be accorded confidential treatment to the extent permitted by law.

Conditions Regarding Records to Be Made

(c) If it is not an ultimate holding company that has a principal regulator, make and keep current the following records:

(1) A record of the results of funding and liquidity stress tests that the ultimate holding company has conducted in response to the following events at least once each quarter and a record of the contingency plan to respond to each of these events:

(i) A credit rating downgrade of the ultimate holding company;

(ii) An inability of the ultimate holding company to access capital markets for unsecured short-term funding;

(iii) An inability of the ultimate holding company to access liquid assets in regulated entities across international borders when the events described in paragraphs (c)(1)(i) or (ii) of this Appendix G occur; and

(iv) An inability of the ultimate holding company to access credit or assets held at a particular institution when the events described in paragraphs (c)(1)(i) or (ii) of this Appendix G occur;

(2) A record of the basis for the determination of credit risk weights for each counterparty;

(3) A record of the basis for the determination of internal credit ratings for each counterparty; and

(4) A record of the calculations of allowable capital and allowances for market, credit and operational risk computed currently at least once per month on a consolidated basis.

Conditions Regarding Preservation of Records

(d)(1) Must preserve the following information, documents, and reports for a period of not less than three years in an easily accessible place using any media acceptable under § 240.17a-4(f):

(i) The documents created in accordance with paragraph (c) of this Appendix G;

(ii) Any application or documents filed with the Commission pursuant to § 240.15c3-1e and this Appendix G and any written responses received from the Commission;

(iii) All reports and notices filed with the Commission pursuant to § 240.15c3-1e and this Appendix G; and

(iv) If the ultimate holding company does not have a principal regulator, all written policies and procedures concerning the group-wide internal risk management control system established pursuant to § 240.15c3-1e(a)(1)(viii)(C); and

(2) The ultimate holding company may maintain the records referred to in paragraph (d)(1) of this Appendix G either at the ultimate holding company, at an affiliate, or at a records storage facility, provided that the records are located within the United States. If
the records are maintained by an entity other than the ultimate holding company, the ultimate holding company shall obtain and file with the Commission a written undertaking by the entity maintaining the records, in a form acceptable to the Commission, signed by a duly authorized person at the entity maintaining the records, to the effect that the records will be treated as if the ultimate holding company were maintaining the records pursuant to this section and that the entity maintaining the records will permit examination of such records at any time or from time to time during business hours by representatives or designees of the Commission and will promptly furnish the Commission or its designee a true, legible, complete, and current paper copy of any or all or any part of such records. The election to operate pursuant to the provisions of this paragraph shall not relieve the ultimate holding company that is required to maintain and preserve such records from any of its reporting or record-keeping responsibilities under this section.

**Conditions Regarding Notification**

(e) The ultimate holding company of a broker or dealer that computes certain of its capital charges in accordance with § 240.15c3-1e shall:

(1) Send notice promptly (but within 24 hours) after the occurrence of the following events:

   (i) The early warning indications of low capital as the Commission may agree;

   (ii) The ultimate holding company files a Form 8-K (17 CFR 249.308) with the Commission; and

   (iii) A material affiliate declares bankruptcy or otherwise becomes insolvent; and

(2) If it is not an ultimate holding company that has a principal regulator, as defined in § 240.15c3-1(c)(13), send notice promptly (but within 24 hours) after the occurrence of the following events:

   (i) The ultimate holding company becomes aware that an NRSRO has determined to reduce materially its assessment of the creditworthiness of a material affiliate or the credit rating(s) assigned to one or more outstanding short or long-term obligations of a material affiliate;

   (ii) The ultimate holding company becomes aware that any financial regulatory agency or self-regulatory organization has taken significant enforcement or regulatory action against a material affiliate; and

   (iii) The occurrence of any backtesting exception under § 240.15c3-1e(d)(1)(i) or (iv) that would require that the ultimate holding company use a higher multiplication factor in the calculation of its allowances for market or credit risk;

(3) Every notice given or transmitted by paragraph (e) of this Appendix G will be given or transmitted to the Division of Market Regulation, Office of Financial Responsibility, at the principal office of the Commission in Washington, DC. A person who files notification pursuant to this section for which he or she seeks confidential treatment may clearly mark each page or segregable portion of each page with the words “Confidential Treatment Request.” For the purposes of this Appendix G, “notice” shall be given or transmitted by telegraphic notice or facsimile transmission. The notice described by paragraph (e)(2) of this Appendix G may be transmitted by overnight delivery. Notices filed pursuant to this paragraph will be accorded confidential treatment to the extent permitted by law; and

(4) Upon the written request of the ultimate holding company, or upon its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of this paragraph (e) either unconditionally or on specified terms and conditions as are necessary or appropriate in the public interest or for the protection of investors.
CUSTOMERS’ FREE CREDIT BALANCES

Rule 15c3-2. Customers’ Free Credit Balances.

[Removed and Reserved. SEC Release No. 34-70072; July 30, 2013. Effective Date: October 21, 2013.]


**Except where otherwise noted, § 240.15c3-3 applies to a broker or dealer registered under section 15(b) of the Act (15 U.S.C. 78o(b)), including a broker or dealer also registered as a security-based swap dealer or major security-based swap participant under section 15F(b) of the Act (15 U.S.C. 78o-10(b)). A security-based swap dealer or major security-based swap participant registered under section 15F(b) of the Act that is not also registered as a broker or dealer under section 15(b) of the Act is subject to the requirements under § 240.18a-4.

(a) Definitions. For the purpose of this rule:

(1) The term customer shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a broker or dealer, a municipal securities dealer, or a government securities broker or government securities dealer. The term shall, however, include another broker or dealer to the extent that broker or dealer maintains an omnibus account for the account of customers with the broker or dealer in compliance with Regulation T (12 CFR § 220.1 through § 220.12). The term shall not include a general partner or director or principal officer of the broker or dealer or any other person to the extent that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. In addition, the term shall not include a person to the extent that the person has a claim for security futures products held in a futures account, or any security futures product and any futures product held in a “proprietary account” as defined by the Commodity Futures Trading Commission in § 1.3(y) of this chapter. The term also shall not include a counterparty who has delivered collateral to an OTC derivatives dealer pursuant to a transaction in an eligible OTC derivative instrument, or pursuant to the OTC derivatives dealer’s cash management securities activities or ancillary portfolio management.

*Effective September __, 2019, Rule 15c3-3 is amended by adding an undesignated introductory paragraph and by adding paragraph (p) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.

**Effective September __, 2019, Rule 15c3-3 is amended by adding an undesignated introductory paragraph as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
securities activities, and who has received a prominent written notice from the OTC derivatives dealer that:

(i) Except as otherwise agreed in writing by the OTC derivatives dealer and the counterparty, the dealer may repledge or otherwise use the collateral in its business;

(ii) In the event of the OTC derivatives dealer’s failure, the counterparty will likely be considered an unsecured creditor of the dealer as to that collateral;

(iii) The Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) (SIPA) does not protect the counterparty; and

(iv) The collateral will not be subject to the requirements of § 240.8c-1, § 240.15c2-1, § 240.15c3-2, or § 240.15c3-3.

(2) The term securities carried for the account of a customer (hereinafter also “customer securities”) shall mean:

(i) Securities received by or on behalf of a broker or dealer for the account of any customer and securities carried long by a broker or dealer for the account of any customer; and

(ii) Securities sold to, or bought for, a customer by a broker or dealer.

(3) The term fully paid securities means all securities carried for the account of a customer in a cash account as defined in Regulation T (12 CFR 220.1 et seq.), as well as securities carried for the account of a customer in a margin account or any special account under Regulation T that have no loan value for margin purposes, and all margin equity securities in such accounts if they are fully paid: Provided, however, that the term fully paid securities does not apply to any securities purchased in transactions for which the customer has not made full payment.

(4) The term margin securities means those securities carried for the account of a customer in a margin account as defined in section 4 of Regulation T (12 CFR 220.4), as well as securities carried in any other account (such accounts hereinafter referred to as “margin accounts”) other than the securities referred to in paragraph (a)(3) of this section.

(5) The term excess margin securities shall mean those securities referred to in paragraph (a)(4) of this section carried for the account of a customer having a market value in excess of 140 percent of the total of the debit balances in the customer’s account or accounts encompassed by paragraph (a)(4) of this section which the broker or dealer identifies as not constituting margin securities.

(6) The term qualified security shall mean a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(7) The term bank means a bank as defined in section 3(a)(6) of the Act and will also mean any building and loan, savings and loan or similar banking institution subject to supervision by a Federal banking authority. With respect to a broker or dealer that maintains its principal place of business in Canada, the term “bank” also means a Canadian bank subject to supervision by a Canadian authority.

(8) The term free credit balances means liabilities of a broker or dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise, excluding, however, funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner, or which are funds carried in a proprietary account as that term is defined in regulations under the Commodity
Exchange Act. The term “free credit balances” also includes, if subject to immediate cash payment to customers on demand, funds carried in a securities account pursuant to a self-regulatory organization portfolio margining rule approved by the Commission under section 19(b) of the Act (15 U.S.C. 78s(b)) (“SRO portfolio margining rule”), including variation margin or initial margin, marks to market, and proceeds resulting from margin paid or released in connection with closing out, settling or exercising futures contracts and options thereon.

(9) The term other credit balances means cash liabilities of a broker or dealer to customers other than free credit balances and funds in commodity accounts which are segregated in accordance with the Commodity Exchange Act or in a similar manner, or funds carried in a proprietary account as that term is defined in regulations under the Commodity Exchange Act. The term “other credit balances” also includes funds that are cash liabilities of a broker or dealer to customers other than free credit balances and are carried in a securities account pursuant to an SRO portfolio margining rule, including variation margin or initial margin, marks to market, and proceeds resulting from margin paid or released in connection with closing out, settling or exercising futures contracts and options thereon.

(10) The term funds carried for the account of any customer (hereinafter also “customer funds”) shall mean all free credit and other credit balances carried for the account of the customer.

(11) The term principal officer shall mean the president, executive vice president, treasurer, secretary or any other person performing a similar function with the broker or dealer.

(12) The term household members and other persons related to principals includes husbands or wives, children, sons-in-law or daughters-in-law and any household relative to whose support a principal contributes directly or indirectly. For purposes of this paragraph (a)(12), a principal shall be deemed to be a director, general partner, or principal officer of the broker or dealer.

(13) The term affiliated person includes any person who directly or indirectly controls a broker or dealer or any person who is directly or indirectly controlled by or under common control with the broker or dealer. Ownership of 10% or more of the common stock of the relevant entity will be deemed prima facie control of that entity for purposes of this paragraph.

(14) The term securities account shall mean an account that is maintained in accordance with the requirements of Section 15(c)(3) of the Exchange Act and § 240.15c3-3.

(15) The term futures account (also referred to as “commodity account”) shall mean an account that is maintained in accordance with the segregation requirements of Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) and the rules thereunder.

(16) The term PAB account means a proprietary securities account of a broker or dealer (which includes a foreign broker or dealer, or a foreign bank acting as a broker or dealer) other than a delivery-versus-payment account or a receipt-versus-payment account. The term does not include an account that has been subordinated to the claims of creditors of the carrying broker or dealer.

(17) The term Sweep Program means a service provided by a broker or dealer where it offers to its customer the option to automatically transfer free credit balances in the securities account of the customer to either a money market mutual fund product as described in § 270.2a-7 of this chapter or an account at a bank whose deposits are insured by the Federal Deposit Insurance Corporation.
(b) *Physical Possession or Control of Securities.*

(1) A broker or dealer shall promptly obtain and shall thereafter maintain the physical possession or control of all fully-paid securities and excess margin securities carried by a broker or dealer for the account of customers.

(2) A broker or dealer shall not be deemed to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of customers’ securities if, solely as the result of normal business operations, temporary lags occur between the time when a security is required to be in the possession or control of the broker or dealer and the time that it is placed in the broker’s or dealer’s physical possession or under its control, provided that the broker or dealer takes timely steps in good faith to establish prompt physical possession or control. The burden of proof shall be on the broker or dealer to establish that the failure to obtain physical possession or control of securities carried for the account of customers as required by paragraph (b)(1) of this section is merely temporary and solely the result of normal business operations including same day receipt and redelivery (turnaround), and to establish that it has taken timely steps in good faith to place them in its physical possession or control.

(3) A broker or dealer shall not be deemed to be in violation of the provisions of paragraph (b)(1) of this section regarding physical possession or control of fully-paid or excess margin securities borrowed from any person, provided that the broker or dealer and the lender, at or before the time of the loan, enter into a written agreement that, at a minimum:

   (i) Sets forth in a separate schedule or schedules the basis of compensation for any loan and generally the rights and liabilities of the parties as to the borrowed securities;

   (ii) Provides that the lender will be given a schedule of the securities actually borrowed at the time of the borrowing of the securities;

   (iii) Specifies that the broker or dealer:

      (A) Must provide to the lender, upon the execution of the agreement or by the close of the business day of the loan if the loan occurs subsequent to the execution of the agreement, collateral, which fully secures the loan of securities, consisting exclusively of cash or United States Treasury bills and Treasury notes or an irrevocable letter of credit issued by a bank as defined in section 3(a)(6)(A)–(C) of the Act (15 U.S.C. 78c(a)(6)(A)–(C)) or such other collateral as the Commission designates as permissible by order as necessary or appropriate in the public interest and consistent with the protection of investors after giving consideration to the collateral’s liquidity, volatility, market depth and location, and the issuer’s creditworthiness; and

      (B) Must mark the loan to the market not less than daily and, in the event that the market value of all the outstanding securities loaned at the close of trading at the end of the business day exceeds 100 percent of the collateral then held by the lender, the borrowing broker or dealer must provide additional collateral of the type described in paragraph (b)(3)(iii)(A) of this section to the lender by the close of the next business day as necessary to equal, together with the collateral then held by the lender, not less than 100 percent of the market value of the securities loaned; and

      (iv) Contains a prominent notice that the provisions of the SIPA may not protect the lender with respect to the securities loan transaction and that, therefore, the collateral delivered to the lender may constitute the only source of satisfaction of the broker’s or dealer’s obligation in the event the broker or dealer fails to return the securities.

   (4)(i) Notwithstanding paragraph (k)(2)(i) of this section, a broker or dealer that retains custody of securities that are the subject of a repurchase agreement between the broker or dealer and a counterparty shall:
(A) Obtain the repurchase agreement in writing;

(B) Confirm in writing the specific securities that are the subject of a repurchase transaction pursuant to such agreement at the end of the trading day on which the transaction is initiated and at the end of any other day during which other securities are substituted if the substitution results in a change in the issuer, maturity date, par amount or coupon rate as specified in the previous confirmation;

(C) Advise the counterparty in the repurchase agreement that the Securities Investor Protection Corporation has taken the position that the provisions of the SIPA do not protect the counterparty with respect to the repurchase agreement; and

(D) Maintain possession or control of securities that are the subject of the agreement.

(ii) For purposes of this paragraph (4), securities are in the broker’s or dealer’s control only if they are in the control of the broker or dealer within the meaning of § 240.15c3-3(c)(1), (c)(3), (c)(5) or (c)(6) of this title.

(iii) A broker or dealer shall not be in violation of the requirement to maintain possession or control pursuant to paragraph (b)(4)(i)(D) during the trading day if:

(A) In the written repurchase agreement, the counterparty grants the broker or dealer the right to substitute other securities for those subject to the agreement; and

(B) The provision in the written repurchase agreement governing the right, if any, to substitute is immediately preceded by the following disclosure statement, which must be prominently displayed:

“REQUIRED DISCLOSURE

The [seller] is not permitted to substitute other securities for those subject to this agreement and therefore must keep the [buyer’s] securities segregated at all times, unless in this agreement the [buyer] grants the [seller] the right to substitute other securities. If the [buyer] grants the right to substitute, this means that the [buyer’s] securities will likely be commingled with the [seller’s] own securities during the trading day. The [buyer] is advised that, during any trading day that the [buyer’s] securities are commingled with the [seller’s] securities, they will be subject to liens granted by the [seller] to its clearing bank and may be used by the [seller] for deliveries on other securities transactions. Whenever the securities are commingled, the [seller’s] ability to resegregate substitute securities for the [buyer] will be subject to the [seller’s] ability to satisfy the clearing lien or to obtain substitute securities."

(iv) A confirmation issued in accordance with paragraph (b)(4)(i)(B) of this section shall specify the issuer, maturity date, coupon rate, par amount and market value of the security and shall further identify a CUSIP or mortgage-backed security pool number, as appropriate, except that a CUSIP or a pool number is not required on the confirmation if it is identified in internal records of the broker or dealer that designate the specific security of the counterparty. For purposes of this paragraph (b)(4)(iv), the market value of any security that is the subject of the repurchase transaction shall be the most recently available bid price plus accrued interest, obtained by any reasonable and consistent methodology.

(v) This paragraph (b)(4) shall not apply to a repurchase agreement between the broker or dealer and another broker or dealer (including a government securities broker or dealer), a registered municipal securities dealer, or a general partner or director or principal officer of the broker or dealer or any person to the extent that the person’s claim is explicitly subordinated to the claims of creditors of the broker or dealer.

(5) A broker or dealer is required to obtain and thereafter maintain the physical possession or control of securities carried for a PAB account, unless the broker or
dealer has provided written notice to the account holder that the securities may be used in the ordinary course of its securities business, and has provided an opportunity for the account holder to object.

(c) Control of Securities. Securities under the control of a broker or dealer shall be deemed to be securities which:

(1) Are represented by one or more certificates in the custody or control of a clearing corporation or other subsidiary organization of either national securities exchanges or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c-1(g) and 240.15c2-1(g), the delivery of which certificates to the broker or dealer does not require the payment of money or value, and if the books or records of the broker or dealer identify the customers entitled to receive specified quantities or units of the securities so held for such customers collectively; or

(2) Are carried for the account of any customer by a broker or dealer and are carried in an omnibus credit account in the name of such broker or dealer with another broker or dealer in compliance with the requirements of section 7(f) of Regulation T (12 CFR 220.7(f)), such securities being deemed to be under the control of such broker or dealer to the extent that it has instructed such carrying broker or dealer to maintain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such carrying broker or dealer or any persons claiming through such carrying broker or dealer; or

(3) Are the subject of bona fide items of transfer; provided that securities shall be deemed not to be the subject of bona fide items of transfer if, within 40 calendar days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by the broker or dealer, the broker or dealer has not received a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or the broker or dealer has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer; or

(4) Are in the custody of a foreign depository, foreign clearing agency or foreign custodian bank which the Commission upon application from a broker or dealer, a registered national securities exchange or a registered national securities association, or upon its own motion shall designate as a satisfactory control location for securities; or

(5) Are in the custody or control of a bank as defined in Section 3(a)(6) of the Act, the delivery of which securities to the broker or dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank; or

(6)(i) Are held in or are in transit between offices of the broker or dealer; or (ii) are held by a corporate subsidiary if the broker or dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary’s obligations and liabilities, operates the subsidiary as a branch office of the broker or dealer, and assumes full responsibility for compliance by the subsidiary and all of its associated persons with the provisions of the federal securities laws as well as for all of the other acts of the subsidiary and such associated persons; or

(7) Are held in such other locations as the Commission shall upon application from a broker or dealer find and designate to be adequate for the protection of customer securities.
(d) **Requirement to Reduce Securities to Possession or Control.** Not later than the next business day, a broker or dealer, as of the close of the preceding business day, shall determine from its books or records the quantity of fully-paid securities and excess margin securities in its possession or control and the quantity of fully-paid securities and excess margin securities not in its possession or control. In making this daily determination inactive margin accounts (accounts having no activity by reason of purchase or sale of securities, receipt or delivery of cash or securities or similar type events) may be computed not less than once weekly. If such books or records indicate, as of such close of the business day, that such broker or dealer has not obtained physical possession or control of all fully paid and excess margin securities as required by this rule and there are securities of the same issue and class in any of the following noncontrol locations:

1. Securities subject to a lien securing moneys borrowed by the broker or dealer or securities loaned to another broker or dealer or a clearing corporation, then the broker or dealer shall, not later than the business day following the day on which such determination is made, issue instructions for the release of such securities from the lien or return of such loaned securities and shall obtain physical possession or control of such securities within two business days following the date of issuance of the instructions in the case of securities subject to lien securing borrowed moneys and within five business days following the date of issuance of instructions in the case of securities loaned; or

2. Securities included on the broker’s or dealer’s books or records as failed to receive more than 30 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so failed to receive through a buy-in procedure or otherwise; or

3. Securities receivable by the broker or dealer as a security dividend receivable, stock split or similar distribution for more than 45 calendar days, then the broker or dealer shall, not later than the business day following the day on which such determination is made, take prompt steps to obtain physical possession or control of securities so receivable through a buy-in procedure or otherwise; or

4. Securities included on the broker’s or dealer’s books or records that allocate to a short position of the broker or dealer or a short position for another person, excluding positions covered by paragraph (m) of this section, for more than 30 calendar days, then the broker or dealer must, not later than the business day following the day on which the determination is made, take prompt steps to obtain physical possession or control of such securities. For the purposes of this paragraph (d)(4), the 30 day time period will not begin to run with respect to a syndicate short position established in connection with an offering of securities until the completion of the underwriter’s participation in the distribution as determined pursuant to §242.100(b) of Regulation M of this chapter (17 CFR 242.100 through 242.105); or

5. A broker or dealer which is subject to the requirements of §240.15c3-3 with respect to physical possession or control of fully-paid and excess margin securities shall prepare and maintain a current and detailed description of the procedures which it utilizes to comply with the possession or control requirements set forth in this section. The records required herein shall be made available upon request to the Commission and to the designated examining authority for such broker or dealer.

(e) **Special Reserve Bank Accounts For the Exclusive Benefit of Customers and PAB Accounts.**

1. Every broker or dealer must maintain with a bank or banks at all times when deposits are required or hereinafter specified a “Special Reserve Bank Account for the Exclusive Benefit of Customers” (hereinafter referred to as the *Customer Reserve*
Bank Account) and a “Special Reserve Bank Account for Brokers and Dealers” (hereinafter referred to as the PAB Reserve Bank Account), each of which will be separate from the other and from any other bank account of the broker or dealer. Such broker or dealer must at all times maintain in the Customer Reserve Bank Account and the PAB Reserve Bank Account, through deposits made therein, cash and/or qualified securities in amounts computed in accordance with the formula attached as Exhibit A (17 CFR 240.15c3-3a), as applied to customer and PAB accounts respectively.

(2) With respect to each computation required pursuant to paragraph (e)(1) of this section, a broker or dealer must not accept or use any of the amounts under items comprising Total Credits under the formula referred to in paragraph (e)(1) of this section except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, at least the net amount thereof must be maintained in the Customer Reserve Bank Account and PAB Reserve Bank Account pursuant to paragraph (e)(1) of this section.

(3) Reserve Bank Account Computations.

(i) Computations necessary to determine the amount required to be deposited in the Customer Reserve Bank Account and PAB Reserve Bank Account as specified in paragraph (e)(1) of this section must be made weekly, as of the close of the last business day of the week, and the deposit so computed must be made no later than one hour after the opening of banking business on the second following business day; provided, however, a broker or dealer which has aggregate indebtedness not exceeding 800 percent of net capital (as defined in § 240.15c3-1) and which carries aggregate customer funds (as defined in paragraph (a)(10) of this section), as computed at the last required computation pursuant to this section, not exceeding $1,000,000, may in the alternative make the Customer Reserve Bank Account computation monthly, as of the close of the last business day of the month, and, in such event, must deposit not less than 105 percent of the amount so computed no later than one hour after the opening of banking business on the second following business day.

(ii) If a broker or dealer, computing on a monthly basis, has, at the time of any required computation, aggregate indebtedness in excess of 800 percent of net capital, such broker or dealer must thereafter compute weekly as aforesaid until four successive weekly Customer Reserve Bank Account computations are made, none of which were made at a time when its aggregate indebtedness exceeded 800 percent of its net capital.

(iii) A broker or dealer that does not carry the accounts of a “customer” as defined by this section or conduct a proprietary trading business may make the computation to be performed with respect to PAB accounts under paragraph (e)(1) of this section monthly rather than weekly. If a broker or dealer performing the computation with respect to PAB accounts under paragraph (e)(1) of this section on a monthly basis is, at the time of any required computation, required to deposit additional cash or qualified securities in the PAB Reserve Bank Account, the broker or dealer must thereafter perform the computation required with respect to PAB accounts under paragraph (e)(1) of this section weekly until four successive weekly computations are made, none of which is made at a time when the broker or dealer was required to deposit additional cash or qualified securities in the PAB Reserve Bank Account.

(iv) Computations in addition to the computations required in this paragraph (e)(3), may be made as of the close of any business day, and the deposits so computed must be made no later than one hour after the opening of banking business on the second following business day.
(v) The broker or dealer must make and maintain a record of each such computation made pursuant to this paragraph (e)(3) or otherwise and preserve each such record in accordance with § 240.17a-4.

(4) If the computation performed under paragraph (e)(3) of this section with respect to PAB accounts results in a deposit requirement, the requirement may be satisfied to the extent of any excess debit in the computation performed under paragraph (e)(3) of this section with respect to customer accounts of the same date. However, a deposit requirement resulting from the computation performed under paragraph (e)(3) of this section with respect to customer accounts cannot be satisfied with excess debits from the computation performed under paragraph (e)(3) of this section with respect to PAB accounts.

(5) In determining whether a broker or dealer maintains the minimum deposits required under this section, the broker or dealer must exclude the total amount of any cash deposited with an affiliated bank. The broker or dealer also must exclude cash deposited with a non-affiliated bank to the extent that the amount of the deposit exceeds 15% of the bank’s equity capital as reported by the bank in its most recent Call Report or any successor form the bank is required to file by its appropriate Federal banking agency (as defined by section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

(f) Notification of Banks. A broker or dealer required to maintain a Customer Reserve Bank Account and PAB Reserve Bank Account prescribed by paragraph (e)(1) of this section or who maintains a Special Account referred to in paragraph (k) of this section must obtain and preserve in accordance with § 240.17a-4 a written notification from each bank with which it maintains a Customer Reserve Bank Account, a PAB Reserve Bank Account, or a Special Account that the bank was informed that all cash and/or qualified securities deposited therein are being held by the bank for the exclusive benefit of the customers and account holders of the broker or dealer in accordance with the regulations of the Commission, and are being kept separate from any other accounts maintained by the broker or dealer with the bank, and the broker or dealer must have a written contract with the bank which provides that the cash and/or qualified securities will at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank and will not be subject to any right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank.

(g) Withdrawals From the Reserve Bank Accounts. A broker or dealer may make withdrawals from a Customer Reserve Bank Account and a PAB Reserve Bank Account if and to the extent that at the time of the withdrawal the amount remaining in the Customer Reserve Bank Account and PAB Reserve Bank Account is not less than the amount then required by paragraph (e) of this section. A bank may presume that any request for withdrawal from a Reserve Bank Account is in conformity and compliance with this paragraph (g). On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a-4.

(h) Buy-in of Short Security Differences. A broker or dealer shall within 45 calendar days after the date of the examination, count, verification and comparison of securities pursuant to § 240.17a-13 or otherwise or to the annual report of financial condition in accordance with § 240.17a-5 or 240.17a-12, buy-in all short security differences which are not resolved during the 45-day period.

(i) Notification in the Event of Failure to Make a Required Deposit. If a broker or dealer shall fail to make in its Customer Reserve Bank Account, PAB Reserve Bank Account or special account a deposit, as required by this section, the broker or dealer shall by telegram immediately notify the Commission and the regulatory authority for the broker or dealer, which examines such broker or dealer as to financial responsibility and shall promptly thereafter confirm such notification in writing.
(j) Treatment of Free Credit Balances.

(1) A broker or dealer must not accept or use any free credit balance carried for the account of any customer of the broker or dealer unless such broker or dealer has established adequate procedures pursuant to which each customer for whom a free credit balance is carried will be given or sent, together with or as part of the customer’s statement of account, whenever sent but not less frequently than once every three months, a written statement informing the customer of the amount due to the customer by the broker or dealer on the date of the statement, and that the funds are payable on demand of the customer.

(2) A broker or dealer must not convert, invest, or transfer to another account or institution, credit balances held in a customer’s account except as provided in paragraphs (j)(2)(i) and (ii) of this section.

(i) A broker or dealer is permitted to invest or transfer to another account or institution, free credit balances in a customer’s account only upon a specific order, authorization, or draft from the customer, and only in the manner, and under the terms and conditions, specified in the order, authorization, or draft.

(ii) A broker or dealer is permitted to transfer free credit balances held in a customer’s securities account to a product in its Sweep Program or to transfer a customer’s interest in one product in a Sweep Program to another product in a Sweep Program, provided:

(A) For an account opened on or after the effective date of this paragraph (j)(2)(ii), the customer gives prior written affirmative consent to having free credit balances in the customer’s securities account included in the Sweep Program after being notified:

(I) Of the general terms and conditions of the products available through the Sweep Program; and

(2) That the broker or dealer may change the products available under the Sweep Program.

(B) For any account:

(I) The broker or dealer provides the customer with the disclosures and notices regarding the Sweep Program required by each self-regulatory organization of which the broker or dealer is a member;

(2) The broker or dealer provides notice to the customer, as part of the customer’s quarterly statement of account, that the balance in the bank deposit account or shares of the money market mutual fund in which the customer has a beneficial interest can be liquidated on the customer’s order and the proceeds returned to the securities account or remitted to the customer; and

(3)(i) The broker or dealer provides the customer with written notice at least 30 calendar days before:

(A) Making changes to the terms and conditions of the Sweep Program;

(B) Making changes to the terms and conditions of a product currently available through the Sweep Program;

(C) Changing, adding or deleting products available through the Sweep Program; or

(D) Changing the customer’s investment through the Sweep Program from one product to another.
(ii) The notice must describe the new terms and conditions of the Sweep Program or product or the new product, and the options available to the customer if the customer does not accept the new terms and conditions or product.

(k) Exemptions.

(1) The provisions of this rule shall not be applicable to a broker or dealer meeting all of the following conditions:

(i) The broker’s or dealer’s transactions as dealer (as principal for its own account) are limited to the purchase, sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for its own account with or through another registered broker or dealer;

(ii) The broker’s or dealer’s transactions as broker (agent) are limited to: (a) the sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (b) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and (c) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(iii) The broker or dealer promptly transmits all funds and delivers all securities received in connection with its activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

(iv) Notwithstanding the foregoing, this rule shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in paragraphs (k)(1)(i), (ii) and (iii) of this section, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling or holding of securities for or on behalf of such company’s general and separate accounts.

(2) The provisions of this rule shall not be applicable to a broker or dealer:

(i) Who carries no margin accounts, promptly transmits all customer funds and delivers all securities received in connection with its activities as a broker or dealer, does not otherwise hold funds or securities for, or owe money or securities to, customers and effectuates all financial transactions between the broker or dealer and its customers through one or more bank accounts, each to be designated as “Special Account for the Exclusive Benefit of Customers of (name of the broker or dealer)”;

(ii) Who, as an introducing broker or dealer, clears all transactions with and for customers on a fully disclosed basis with a clearing broker or dealer, and who promptly transmits all customer funds and securities to the clearing broker or dealer which carries all of the accounts of such customers and maintains and preserves such books and records pertaining thereto pursuant to the requirements of §§ 240.17a-3 and 240.17a-4, as are customarily made and kept by a clearing broker or dealer.

(3) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this rule, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this rule and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.
(l) Delivery of Securities. Nothing stated in this rule shall be construed as affecting the absolute right of a customer of a broker or dealer to receive in the course of normal business operations following demand made on the broker or dealer, the physical delivery of certificates for:

(1) Fully-paid securities to which he is entitled, and

(2) Margin securities upon full payment by such customer to the broker or dealer of the customer’s indebtedness to the broker or dealer; and, subject to the right of the broker or dealer under Regulation T (12 CFR 220) to retain collateral for its own protection beyond the requirements of Regulation T, excess margin securities not reasonably required to collateralize such customer’s indebtedness to the broker or dealer.

(m) Completion of Sell Orders on Behalf of Customers. If a broker or dealer executes a sell order of a customer (other than an order to execute a sale of securities which the seller does not own) and if for any reason whatever the broker or dealer has not obtained possession of the securities from the customer within 10 business days after the settlement date, the broker or dealer shall immediately thereafter close the transaction with the customer by purchasing securities of like kind and quantity: provided, however, the term customer for the purpose of this paragraph (m) shall not include a broker or dealer who maintains an omnibus credit account with another broker or dealer in compliance with section 7(f) of Regulation T (12 CFR 220.7(f)).

Note to Paragraph (m). See 38 FR 12103, May 9, 1973 for an order suspending indefinitely the operation of paragraph (m) as to sell orders for exempted securities (e.g., U.S. Government and municipal obligations).

(n) Extensions of Time. If a registered national securities exchange or a registered national securities association is satisfied that a broker or dealer is acting in good faith in making the application and that exceptional circumstances warrant such action, such exchange or association, on application of the broker or dealer, may extend any period specified in paragraphs (d)(2) through (4), (h) and (m) of this section, relating to the requirement that such broker or dealer take action within a designated period of time to buy-in a security, for one or more limited periods commensurate with the circumstances. Each such exchange or association shall make and preserve for a period of not less than three years a record of each extension granted pursuant to paragraph (n) of this section which shall contain a summary of the justification for the granting of the extension.

(o) Security Futures Products.

(1) Where Security Futures Products Shall Be Held. A broker or dealer registered with the Commission pursuant to Section 15(b)(1) of the Exchange Act that is also a futures commission merchant registered with the Commodity Futures Trading Commission pursuant to Section 4f(a)(1) of the Commodity Exchange Act (7 U.S.C. 6f(a)(1)):

(i) Shall hold a customer’s security futures products in either a securities account or a futures account; and

(ii) Shall establish written policies or procedures for determining whether customer security futures products will be placed in a securities account or a futures account and, if applicable, the process by which a customer may elect the type or types of account in which security futures products will be held (including the procedure to be followed if a customer fails to make an election of account type).
(2) Disclosure and Record Requirements.

(i) Except as provided in paragraph (o)(2)(ii), before a broker or dealer registered with the Commission pursuant to Section 15(b)(1) of the Exchange Act accepts the first order for a security futures product from or on behalf of a customer, the broker or dealer shall furnish the customer with a disclosure document containing the following information:

(A) A description of the protections provided by the requirements set forth under this section and SIPA applicable to a securities account;

(B) A description of the protections provided by the requirements set forth under Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) applicable to a futures account;

(C) A statement indicating whether the customer’s security futures products will be held in a securities account or a futures account, or whether the firm permits customers to make or change an election of account type; and

(D) A statement that, with respect to holding the customer’s security futures products in a securities account or a futures account, the alternative regulatory scheme is not available to the customer with relation to that account.

(ii) Where a customer account containing an open security futures product position is transferred to a broker or dealer registered with the Commission pursuant to Section 15(b)(1) of the Exchange Act, that broker or dealer may instead provide the statements described in paragraphs (o)(2)(i)(C) and (o)(2)(i)(D) of this section no later than ten business days after the date the account is received.

(3) Changes in Account Type. A broker or dealer registered with the Commission pursuant to Section 15(b)(1) of the Exchange Act that is also a futures commission merchant registered pursuant to Section 4f(a)(1) of the Commodity Exchange Act (7 U.S.C. 6f(a)(1)) may change the type of account in which a customer’s security futures products will be held; provided that:

(i) The broker or dealer creates a record of each change in account type, including the name of the customer, the account number, the date the broker or dealer received the customer’s request to change the account type, if applicable, and the date the change in account type became effective; and

(ii) The broker or dealer, at least ten days before the customer’s account type is changed;

(A) Notifies the customer in writing of the date that the change will become effective, and

(B) Provides the customer with the disclosures described in paragraph (o)(2)(i) of this section.

*(p) Segregation Requirements For Security-Based Swaps. The following requirements apply to the security-based swap activities of a broker or dealer.

*Effective September __, 2019, Rule 15c3-3 is amended by adding paragraph (p) as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
(1) Definitions. For the purposes of this paragraph:

(i) The term cleared security-based swap means a security-based swap that is, directly or indirectly, submitted to and cleared by a clearing agency registered with the Commission pursuant to section 17A of the Act (15 U.S.C. 78q-1);

(ii) The term excess securities collateral means securities and money market instruments carried for the account of a security-based swap customer that have a market value in excess of the current exposure of the broker or dealer (after reducing the current exposure by the amount of cash in the account) to the security-based swap customer, excluding:

(A) Securities and money market instruments held in a qualified clearing agency account but only to the extent the securities and money market instruments are being used to meet a margin requirement of the clearing agency resulting from a security-based swap transaction of the security-based swap customer; and

(B) Securities and money market instruments held in a qualified registered security-based swap dealer account or in a third-party custodial account but only to the extent the securities and money market instruments are being used to meet a regulatory margin requirement of a security-based swap dealer resulting from the broker or dealer entering into a non-cleared security-based swap transaction with the security-based swap dealer to offset the risk of a non-cleared security-based swap transaction between the broker or dealer and the security-based swap customer;

(iii) The term qualified clearing agency account means an account of a broker or dealer at a clearing agency registered with the Commission pursuant to section 17A of the Act (15 U.S.C. 78q-1) that holds funds and other property in order to margin, guarantee, or secure cleared security-based swap transactions for the security-based swap customers of the broker or dealer that meets the following conditions:

(A) The account is designated “Special Clearing Account for the Exclusive Benefit of the Cleared Security-Based Swap Customers of [name of broker or dealer]”;

(B) The clearing agency has acknowledged in a written notice provided to and retained by the broker or dealer that the funds and other property in the account are being held by the clearing agency for the exclusive benefit of the security-based swap customers of the broker or dealer in accordance with the regulations of the Commission and are being kept separate from any other accounts maintained by the broker or dealer with the clearing agency; and

(C) The account is subject to a written contract between the broker or dealer and the clearing agency which provides that the funds and other property in the account shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the clearing agency or any person claiming through the clearing agency, except a right, charge, security interest, lien, or claim resulting from a cleared security-based swap transaction effected in the account.

(iv) The term qualified registered security-based swap dealer account means an account at a security-based swap dealer that is registered with the Commission pursuant to section 15F of the Act that meets the following conditions:

(A) The account is designated “Special Reserve Account for the Exclusive Benefit of the Security-Based Swap Customers of [name of broker or dealer]”;

(B) The security-based swap dealer has acknowledged in a written notice provided to and retained by the broker or dealer that the funds and other property held in the account are being held by the security-based swap dealer for the exclusive benefit of the security-based swap customers of the broker or dealer in accordance with the
regulations of the Commission and are being kept separate from any other accounts maintained by the broker or dealer with the security-based swap dealer;

(C) The account is subject to a written contract between the broker or dealer and the security-based swap dealer which provides that the funds and other property in the account shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the security-based swap dealer or any person claiming through the security-based swap dealer, except a right, charge, security interest, lien, or claim resulting from a non-cleared security-based swap transaction effected in the account; and

(D) The account and the assets in the account are not subject to any type of subordination agreement between the broker or dealer and the security-based swap dealer.

(v) The term qualified security means:

(A) Obligations of the United States;

(B) Obligations fully guaranteed as to principal and interest by the United States; and

(C) General obligations of any State or a political subdivision of a State that:

(1) Are not traded flat and are not in default;

(2) Were part of an initial offering of $500 million or greater; and

(3) Were issued by an issuer that has published audited financial statements within 120 days of its most recent fiscal year end.

(vi) The term security-based swap customer means any person from whom or on whose behalf the broker or dealer has received or acquired or holds funds or other property for the account of the person with respect to a cleared or non-cleared security-based swap transaction. The term does not include a person to the extent that person has a claim for funds or other property which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or, in the case of an affiliate of the broker or dealer, is subordinated to all claims of customers (including PAB customers) and security-based swap customers of the broker or dealer.

(vii) The term special reserve account for the exclusive benefit of security-based swap customers means an account at a bank that meets the following conditions:

(A) The account is designated “Special Reserve Account for the Exclusive Benefit of the Security-Based Swap Customers of [name of broker or dealer]”; 

(B) The account is subject to a written acknowledgement by the bank provided to and retained by the broker or dealer that the funds and other property held in the account are being held by the bank for the exclusive benefit of the security-based swap customers of the broker or dealer in accordance with the regulations of the Commission and are being kept separate from any other accounts maintained by the broker or dealer with the bank; and

(C) The account is subject to a written contract between the broker or dealer and the bank which provides that the funds and other property in the account shall at no time be used directly or indirectly as security for a loan or other extension of credit to the broker or dealer by the bank and, shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank.

(viii) The term third-party custodial account means an account carried by an independent third-party custodian that meets the following conditions:
(A) The account is established for the purposes of meeting regulatory margin requirements of another security-based swap dealer;

(B) The account is carried by a bank as defined in section 3(a)(6) of the Act or a registered U.S. clearing organization or depository or, if the collateral to be held in the account consists of foreign securities or currencies, a supervised foreign bank, clearing organization, or depository that customarily maintains custody of such foreign securities or currencies;

(C) The account is designated for and on behalf of the broker or dealer for the benefit of its security-based swap customers and the account is subject to a written acknowledgement by the bank, clearing organization, or depository provided to and retained by the broker or dealer that the funds and other property held in the account are being held by the bank, clearing organization, or depository for the exclusive benefit of the security-based swap customers of the broker or dealer and are being kept separate from any other accounts maintained by the broker or dealer with the bank, clearing organization, or depository; and

(D) The account is subject to a written contract between the broker or dealer and the bank, clearing organization, or depository which provides that the funds and other property in the account shall at no time be used directly or indirectly as security for a loan or other extension of credit to the security-based swap dealer by the bank, clearing organization, or depository and, shall be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank, clearing organization, or depository or any person claiming through the bank, clearing organization, or depository.

(2) Physical Possession or Control of Excess Securities Collateral.

(i) A broker or dealer must promptly obtain and thereafter maintain physical possession or control of all excess securities collateral carried for the security-based swap accounts of security-based swap customers.

(ii) A broker or dealer has control of excess securities collateral only if the securities and money market instruments:

(A) Are represented by one or more certificates in the custody or control of a clearing corporation or other subsidiary organization of either national securities exchanges, or of a custodian bank in accordance with a system for the central handling of securities complying with the provisions of §§ 240.8c-1(g) and 240.15c2-1(g) the delivery of which certificates to the broker or dealer does not require the payment of money or value, and if the books or records of the broker or dealer identify the security-based swap customers entitled to receive specified quantities or units of the securities so held for such security-based swap customers collectively;

(B) Are the subject of bona fide items of transfer; provided that securities and money market instruments shall be deemed not to be the subject of bona fide items of transfer if, within 40 calendar days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by the broker or dealer, the broker or dealer has not received a written statement by the issuer or its transfer agent acknowledging the transfer instructions and the possession of the securities or money market instruments, or the broker or dealer has not obtained a revalidation of a window ticket from a transfer agent with respect to the certificate delivered for transfer;

(C) Are in the custody or control of a bank as defined in section 3(a)(6) of the Act, the delivery of which securities or money market instruments to the broker or dealer does not require the payment of money or value and the bank having acknowledged in writing that the securities and money market instruments in its custody or control are not subject to any right, charge, security interest, lien or claim of any kind in favor of a bank or any person claiming through the bank;
(D)(1) Are held in or are in transit between offices of the broker or dealer; or

(2) Are held by a corporate subsidiary if the broker or dealer owns and exercises a majority of the voting rights of all of the voting securities of such subsidiary, assumes or guarantees all of the subsidiary’s obligations and liabilities, operates the subsidiary as a branch office of the broker or dealer, and assumes full responsibility for compliance by the subsidiary and all of its associated persons with the provisions of the Federal securities laws as well as for all of the other acts of the subsidiary and such associated persons; or

(E) Are held in such other locations as the Commission shall upon application from a broker or dealer find and designate to be adequate for the protection of security-based swap customer securities.

(iii) Each business day the broker or dealer must determine from its books and records the quantity of excess securities collateral in its possession or control as of the close of the previous business day and the quantity of excess securities collateral not in its possession or control as of the previous business day. If the broker or dealer did not obtain possession or control of all excess securities collateral on the previous business day as required by this section and there are securities or money market instruments of the same issue and class in any of the following non-control locations:

(A) Securities or money market instruments subject to a lien securing an obligation of the broker or dealer, then the broker or dealer, not later than the next business day on which the determination is made, must issue instructions for the release of the securities or money market instruments from the lien and must obtain physical possession or control of the securities or money market instruments within two business days following the date of the instructions;

(B) Securities or money market instruments held in a qualified clearing agency account, then the broker or dealer, not later than the next business day on which the determination is made, must issue instructions for the release of the securities or money market instruments by the clearing agency and must obtain physical possession or control of the securities or money market instruments within two business days following the date of the instructions;

(C) Securities or money market instruments held in a qualified registered security-based swap dealer account maintained by another security-based swap dealer or in a third-party custodial account, then the broker or dealer, not later than the next business day on which the determination is made, must issue instructions for the release of the securities or money market instruments by the security-based swap dealer or the third-party custodian and must obtain physical possession or control of the securities or money market instruments within two business days following the date of the instructions;

(D) Securities or money market instruments loaned by the broker or dealer, then the broker or dealer, not later than the next business day on which the determination is made, must issue instructions for the return of the loaned securities or money market instruments and must obtain physical possession or control of the securities or money market instruments within five business days following the date of the instructions;

(E) Securities or money market instruments failed to receive more than 30 calendar days, then the broker or dealer, not later than the next business day on which the determination is made, must take prompt steps to obtain physical possession or control of the securities or money market instruments through a buy-in procedure or otherwise;

(F) Securities or money market instruments receivable by the broker or dealer as a security dividend, stock split or similar distribution for more than 45 calendar days, then the broker or dealer, not later than the next business day on which the determination is
made, must take prompt steps to obtain physical possession or control of the securities or money market instruments through a buy-in procedure or otherwise; or

(G) Securities or money market instruments included on the broker’s or dealer’s books or records that allocate to a short position of the broker or dealer or a short position for another person, for more than 30 calendar days, then the broker or dealer must, not later than the business day following the day on which the determination is made, take prompt steps to obtain physical possession or control of such securities or money market instruments.

(3) Deposit Requirement For Special Reserve Account For the Exclusive Benefit of Security-Based Swap Customers.

(i) A broker or dealer must maintain a special reserve account for the exclusive benefit of security-based swap customers that is separate from any other bank account of the broker or dealer. The broker or dealer must at all times maintain in the special reserve account for the exclusive benefit of security-based swap customers, through deposits into the account, cash and/or qualified securities in amounts computed in accordance with the formula set forth in § 240.15c3-3b. In determining the amount maintained in a special reserve account for the exclusive benefit of security-based swap customers, the broker or dealer must deduct:

(A) The percentage of the value of a general obligation of a State or a political subdivision of a State specified in § 240.15c3-1(c)(2)(vi);

(B) The aggregate value of general obligations of a State or a political subdivision of a State to the extent the amount of the obligations of a single issuer (after applying the deduction in paragraph (p)(3)(i)(A) of this section) exceeds two percent of the amount required to be maintained in the special reserve account for the exclusive benefit of security-based swap customers;

(C) The aggregate value of all general obligations of States or political subdivisions of States to the extent the amount of the obligations (after applying the deduction in paragraph (p)(3)(i)(A) of this section) exceeds 10 percent of the amount required to be maintained in the special reserve account for the exclusive benefit of security-based swap customers;

(D) The amount of cash deposited with a single non-affiliated bank to the extent the amount exceeds 15 percent of the equity capital of the bank as reported by the bank in its most recent Call Report or any successor form the bank is required to file by its appropriate federal banking agency (as defined by section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)); and

(E) The total amount of cash deposited with an affiliated bank.

(ii) A broker or dealer must not accept or use credits identified in the items of the formula set forth in § 240.15c3-3b except for the specified purposes indicated under items comprising Total Debits under the formula, and, to the extent Total Credits exceed Total Debits, at least the net amount thereof must be maintained in the Special Reserve Account pursuant to paragraph (p)(3)(i) of this section.

(iii)(A) The computations necessary to determine the amount required to be maintained in the special reserve account for the exclusive benefit of security-based swap customers must be made weekly as of the close of the last business day of the week and any deposit required to be made into the account must be made no later than one hour after the opening of banking business on the second following business day. The broker or dealer may make a withdrawal from the special reserve account for the exclusive benefit of security-based swap customers only if the amount remaining in the account after the withdrawal is equal to or exceeds the amount required to be maintained in the account pursuant to paragraph (p)(3) of this section.
(B) Computations in addition to the computations required pursuant to paragraph (p)(3)(iii)(A) of this section may be made as of the close of any business day, and deposits so computed must be made no later than one hour after the open of banking business on the second following business day.

(iv) A broker or dealer must promptly deposit into a special reserve account for the exclusive benefit of security-based swap customers cash and/or qualified securities of the broker or dealer if the amount of cash and/or qualified securities in one or more special reserve accounts for the exclusive benefit of security-based swap customers falls below the amount required to be maintained pursuant to this section.

(4) Requirements For Non-Cleared Security-Based Swaps.

(i) Notice. A broker or dealer registered under section 15F(b) of the Act (15 U.S.C. 78o-10(b)) as a security-based swap dealer or major security-based swap participant must provide the notice required pursuant to section 3E(f)(1)(A) of the Act (15 U.S.C. 78c-5(f)) in writing to a duly authorized individual prior to the execution of the first non-cleared security-based swap transaction with the counterparty occurring after the compliance date of this section.

(ii) Subordination.

(A) Counterparty that Elects to Have Individual Segregation at an Independent Third-Party Custodian. A broker or dealer must obtain an agreement from a counterparty whose funds or other property to meet a margin requirement of the broker or dealer are held at a third-party custodian in which the counterparty agrees to subordinate its claims against the broker or dealer for the funds or other property held at the third-party custodian to the claims of customers (including PAB customers) and security-based swap customers of the broker or dealer but only to the extent that funds or other property provided by the counterparty to the independent third-party custodian are not treated as customer property as that term is defined in 11 U.S.C. 741 or customer property as defined in 15 U.S.C. 78lll(4) in a liquidation of the broker or dealer.

(B) Counterparty that Elects to Have No Segregation. A broker or dealer registered under section 15F(b) of the Act as a security-based swap dealer must obtain an agreement from a counterparty that is an affiliate of the broker or dealer that affirmatively chooses not to require segregation of funds or other property pursuant to section 3E(f) of the Act (15 U.S.C. 78c-5(f)) in which the counterparty agrees to subordinate all of its claims against the broker or dealer to the claims of customers (including PAB customers) and security-based swap customers of the broker or dealer.

Rule 15c3-3a. Exhibit A—Formula For Determination of Customer and PAB Account Reserve Requirements of Brokers and Dealers Under § 240.15c3-3.

<table>
<thead>
<tr>
<th>Credits</th>
<th>Debits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Free credit balances and other credit balances in customers’ security accounts (See Note A)</td>
<td>XXX</td>
</tr>
<tr>
<td>2. Monies borrowed collateralized by securities carried for the accounts of customers (See Note B)</td>
<td>XXX</td>
</tr>
<tr>
<td>3. Monies payable against customers’ securities loaned (See Note C)</td>
<td>XXX</td>
</tr>
<tr>
<td>4. Customers’ securities failed to receive (See Note D)</td>
<td>XXX</td>
</tr>
<tr>
<td>5. Credit balances in firm accounts which are attributable to principal sales to customers</td>
<td>XXX</td>
</tr>
</tbody>
</table>
6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days ................................................. XXX

7. Market value of short security count differences over 30 calendar days old ................................................................. XXX

8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days .......................................................... XXX

9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the 40 days ........................................................... XXX

10. Debit balances in customers’ cash and margin accounts excluding unsecured accounts and accounts doubtful of collection (See Note E) ............................................ XXX

11. Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers’ securities failed to deliver ............................................. XXX

12. Failed to deliver of customers’ securities not older than 30 calendar days ........................................................................... XXX

13. Margin required and on deposit with the Options Clearing Corporation for all option contracts written or purchased in customer accounts (See Note F) ................................................... XXX

14. Margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) related to the following types of positions written, purchased or sold in customer accounts: (1) security futures products and (2) futures contracts (and options thereon) carried in a securities account pursuant to an SRO portfolio margining rule (See Note G) .................................................. XXX

15. Excess of total credits (sum of Items 1–9) over total debits (sum of Items 10–14) required to be on deposit in the “Reserve Bank Account” (§ 240.15c3-3(e)). If the computation is made monthly as permitted by this section, the deposit must be not less than 105% of the excess of total credits over total debits ................................................................. XXX

Notes Regarding the Customer Reserve Bank Account Computation

Note A. Item 1 must include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and must also include checks drawn in excess of bank balances per the records of the broker or dealer.

Note B. Item 2 must include the amount of options-related or security futures product-related Letters of Credit obtained by a member of a registered clearing
agency or a derivatives clearing organization which are collateralized by customers’ securities, to the extent of the member’s margin requirement at the registered clearing agency or derivatives clearing organization. Item 2 must also include the amount of Letters of Credit which are collateralized by customers’ securities and related to other futures contracts (and options thereon) carried in a securities account pursuant to an SRO portfolio margining rule.

**Note C.** Item 3 must include in addition to monies payable against customers’ securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

**Note D.** Item 4 must include in addition to customers’ securities failed to receive the amount by which the market value of securities failed to receive and outstanding more than thirty (30) calendar days exceeds their contract value.

**Note E.** (1) Debit balances in margin accounts must be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction must not be in excess of the amounts of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of Section 7(f) of Regulation T (12 CFR 220.7(f)) or similar accounts carried on behalf of another broker or dealer, must be reduced by any deficits in such accounts (or if a credit, such credit must be increased) less any calls for margin, mark to the market, or other required deposits which are outstanding 5 business days or less.

(3) Debit balances in customers’ cash and margin accounts included in the formula under Item 10 must be reduced by an amount equal to 1 percent of their aggregate value.

(4) Debit balances in cash and margin accounts of household members and other persons related to principals of a broker or dealer and debit balances in cash and margin accounts of affiliated persons of a broker or dealer must be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in margin accounts (other than omnibus accounts) must be reduced by the amount by which any single customer’s debit balance exceeds 25% (to the extent such amount is greater than $50,000) of the broker-dealer’s tentative net capital (i.e., net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (e.g., the separate accounts of an individual, accounts under common control or subject to cross guarantees) will be deemed to be a single customer’s accounts for purposes of this provision.

If the registered national securities exchange or the registered national securities association having responsibility for examining the broker or dealer (“designated examining authority”) is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances or margin accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may grant a partial or plenary exception.
from this provision. The debit balance may be included in the reserve formula computation for five business days from the day the request is made.

(6) Debit balances in joint accounts, custodian accounts, participation in hedge funds or limited partnerships or similar type accounts or arrangements that include both assets of a person or persons who would be excluded from the definition of customer ("noncustomer") and assets of a person or persons who would be included in the definition of customer must be included in the Reserve Formula in the following manner: if the percentage ownership of the non-customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-customer must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula; or if such percentage ownership is greater than 50 percent, then the entire debit balance must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

Note F. Item 13 must include the amount of margin required and on deposit with the Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities and letters of credit collateralized by customers’ securities.

Note G. (a) Item 14 must include the amount of margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) for customer accounts to the extent that the margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers’ securities.

(b) Item 14 will apply only if the broker or dealer has the margin related to security futures products, or futures (and options thereon) carried in a securities account pursuant to an approved SRO portfolio margining program on deposit with:

(1) A registered clearing agency or derivatives clearing organization that:

(i) Maintains security deposits from clearing members in connection with regulated options or futures transactions and assessment power over member firms that equal a combined total of at least $2 billion, at least $500 million of which must be in the form of security deposits. For the purposes of this Note G, the term “security deposits” refers to a general fund, other than margin deposits or their equivalent, that consists of cash or securities held by a registered clearing agency or derivative clearing organization; or

(ii) Maintains at least $3 billion in margin deposits; or

(iii) Does not meet the requirements of paragraphs (b)(1)(i) through (b)(1)(iii) of this Note G, if the Commission has determined, upon a written request for exemption by or for the benefit of the broker or dealer, that the broker or dealer may utilize such a registered clearing agency or derivatives clearing organization. The Commission may, in its sole discretion, grant such an exemption subject to such conditions as are appropriate under the circumstances, if the Commission determines that such conditional or unconditional exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors; and

(2) A registered clearing agency or derivatives clearing organization that, if it holds funds or securities deposited as margin for security futures products or
futures in a portfolio margin account in a bank, as defined in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)), obtains and preserves written notification from the bank at which it holds such funds and securities or at which such funds and securities are held on its behalf. The written notification will state that all funds and/or securities deposited with the bank as margin (including customer security futures products and futures in a portfolio margin account), or held by the bank and pledged to such registered clearing agency or derivatives clearing agency as margin, are being held by the bank for the exclusive benefit of clearing members of the registered clearing agency or derivatives clearing organization (subject to the interest of such registered clearing agency or derivatives clearing organization therein), and are being kept separate from any other accounts maintained by the registered clearing agency or derivatives clearing organization with the bank. The written notification also will provide that such funds and/or securities will at no time be used directly or indirectly as security for a loan to the registered clearing agency or derivatives clearing organization by the bank, and will be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. This provision, however, will not prohibit a registered clearing agency or derivatives clearing organization from pledging customer funds or securities as collateral to a bank for any purpose that the rules of the Commission or the registered clearing agency or derivatives clearing organization otherwise permit; and

(3) A registered clearing agency or derivatives clearing organization establishes, documents, and maintains:

(i) Safeguards in the handling, transfer, and delivery of cash and securities;

(ii) Fidelity bond coverage for its employees and agents who handle customer funds or securities. In the case of agents of a registered clearing agency or derivatives clearing organization, the agent may provide the fidelity bond coverage; and

(iii) Provisions for periodic examination by independent public accountants; and

(iv) A derivatives clearing organization that, if it is not otherwise registered with the Commission, has provided the Commission with a written undertaking, in a form acceptable to the Commission, executed by a duly authorized person at the derivatives clearing organization, to the effect that, with respect to the clearance and settlement of the customer security futures products and futures in a portfolio margin account of the broker or dealer, the derivatives clearing organization will permit the Commission to examine the books and records of the derivatives clearing organization for compliance with the requirements set forth in § 240.15c3-3a, Note G (b)(1) through (3).

(c) Item 14 will apply only if a broker or dealer determines, at least annually, that the registered clearing agency or derivatives clearing organization with which the broker or dealer has on deposit margin related to securities future products or futures in a portfolio margin account meets the conditions of this Note G.

Notes Regarding the PAB Reserve Bank Account Computation

Note 1. Broker-dealers should use the formula in Exhibit A for the purposes of computing the PAB reserve requirement, except that references to “accounts,” “customer accounts,” or “customers” will be treated as references to PAB accounts.

Note 2. Any credit (including a credit applied to reduce a debit) that is included in the computation required by § 240.15c3-3 with respect to customer accounts (the “customer reserve computation”) may not be included as a credit in the computation required by § 240.15c3-3 with respect to PAB accounts (the “PAB reserve computation”).
Note 3. Note E(1) to § 240.15c3-3a does not apply to the PAB reserve computation.

Note 4. Note E(3) to § 240.15c3-3a which reduces debit balances by 1% does not apply to the PAB reserve computation.

Note 5. Interest receivable, floor brokerage, and commissions receivable of another broker or dealer from the broker or dealer (excluding clearing deposits) that are otherwise allowable assets under § 240.15c3-1 need not be included in the PAB reserve computation, provided the amounts have been clearly identified as payables on the books of the broker or dealer. Commissions receivable and other receivables of another broker or dealer from the broker or dealer that are otherwise non-allowable assets under § 240.15c3-1 and clearing deposits of another broker or dealer may be included as “credit balances” for purposes of the PAB reserve computation, provided the commissions receivable and other receivables are subject to immediate cash payment to the other broker or dealer and the clearing deposit is subject to payment within 30 days.

Note 6. Credits included in the PAB reserve computation that result from the use of securities held for a PAB account (“PAB securities”) that are pledged to meet intra-day margin calls in a cross-margin account established between the Options Clearing Corporation and any regulated derivatives clearing organization may be reduced to the extent that the excess margin held by the other clearing corporation in the cross-margin relationship is used the following business day to replace the PAB securities that were previously pledged. In addition, balances resulting from a portfolio margin account that are segregated pursuant to Commodity Futures Trading Commission regulations need not be included in the PAB Reserve Bank Account computation.

Note 7. Deposits received prior to a transaction pending settlement which are $5 million or greater for any single transaction or $10 million in aggregate may be excluded as credits from the PAB reserve computation if such balances are placed and maintained in a separate PAB Reserve Bank Account by 12 p.m. Eastern Time on the following business day. Thereafter, the money representing any such deposits may be withdrawn to complete the related transactions without performing a new PAB reserve computation.

Note 8. A credit balance resulting from a PAB reserve computation may be reduced by the amount that items representing such credits are swept into money market funds or mutual funds of an investment company registered under the Investment Company Act of 1940 on or prior to 10 a.m. Eastern Time on the deposit date provided that the credits swept into any such fund are not subject to any right, charge, security interest, lien, or claim of any kind in favor of the investment company or the broker or dealer. Any credits that have been swept into money market funds or mutual funds must be maintained in the name of a particular broker or for the benefit of another broker.

Note 9. Clearing deposits required to be maintained at registered clearing agencies may be included as debits in the PAB reserve computation to the extent the percentage of the deposit, which is based upon the clearing agency’s aggregate deposit requirements (e.g., dollar trading volume), that relates to the proprietary business of other brokers and dealers can be identified.

Note 10. A broker or dealer that clears PAB accounts through an affiliate or third party clearing broker must include these PAB account balances and the omnibus PAB account balance in its PAB reserve computation.
**Rule 15c3-3b. Exhibit B—Formula For Determination of Security-Based Swap Customer Reserve Requirements of Brokers and Dealers Under § 240.15c3-3.*

<table>
<thead>
<tr>
<th>Credits</th>
<th>Debits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Free credit balances and other credit balances in the accounts carried for security-based swap customers (See Note A)</td>
<td>$______</td>
</tr>
<tr>
<td>2. Monies borrowed collateralized by securities in accounts carried for security-based swap customers (See Note B)</td>
<td>$______</td>
</tr>
<tr>
<td>3. Monies payable against security-based swap customers’ securities loaned (See Note C)</td>
<td>$______</td>
</tr>
<tr>
<td>4. Security-based swap customers’ securities failed to receive (See Note D)</td>
<td>$______</td>
</tr>
<tr>
<td>5. Credit balances in firm accounts which are attributable to principal sales to security-based swap customers</td>
<td>$______</td>
</tr>
<tr>
<td>6. Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days</td>
<td>$______</td>
</tr>
<tr>
<td>7. Market value of short security count differences over 30 calendar days old</td>
<td>$______</td>
</tr>
<tr>
<td>8. Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days</td>
<td>$______</td>
</tr>
<tr>
<td>9. Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the 40 days</td>
<td>$______</td>
</tr>
<tr>
<td>10. Debit balances in accounts carried for security-based swap customers, excluding unsecured accounts and accounts doubtful of collection (See Note E)</td>
<td>$______</td>
</tr>
<tr>
<td>11. Securities borrowed to effectuate short sales by security-based swap customers and securities borrowed to make delivery on security-based swap customers’ securities failed to deliver</td>
<td>$______</td>
</tr>
<tr>
<td>12. Failed to deliver of security-based swap customers’ securities not older than 30 calendar days</td>
<td>$______</td>
</tr>
<tr>
<td>13. Margin required and on deposit with the Options Clearing Corporation for all option contracts written or purchased in accounts carried for security-based swap customers (See Note F)</td>
<td>$______</td>
</tr>
</tbody>
</table>

*Effective September __, 2019, Rule 15c3-3b is added as part of amendments establishing capital, margin, and segregation requirements for security-based swap dealers and major security-based swap participants and capital and segregation requirements for broker-dealers under Title VII of the Dodd-Frank Act. See SEC Release No. 34-86175; June 21, 2019. Compliance Date: The compliance date for the rule amendments and new rules is 18 months after the later of: (1) the effective date of the final rules establishing recordkeeping and reporting requirements for SBSDs and MSBSPs; or (2) the effective date of the final rules addressing the cross-border application of certain security-based swap requirements.
14. Margin related to security futures products written, purchased or sold in accounts carried for security-based swap customers required and on deposit in a qualified clearing agency account at a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) (See Note G) $______

15. Margin related to cleared security-based swap transactions in accounts carried for security-based swap customers required and on deposit in a qualified clearing agency account at a clearing agency registered with the Commission pursuant to section 17A of the Act (15 U.S.C. 78q-1) $______

16. Margin related to non-cleared security-based swap transactions in accounts carried for security-based swap customers required and held in a qualified registered security-based swap dealer account at a security-based swap dealer or at a third-party custodial account $______

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Credits</td>
<td>$_____</td>
</tr>
<tr>
<td>Total Debits</td>
<td>$_____</td>
</tr>
<tr>
<td>Excess of Credits over Debits</td>
<td>$_____</td>
</tr>
</tbody>
</table>

Note A. Item 1 must include all outstanding drafts payable to security-based swap customers which have been applied against free credit balances or other credit balances and must also include checks drawn in excess of bank balances per the records of the broker or dealer.

Note B. Item 2 must include the amount of options-related or security futures product-related Letters of Credit obtained by a member of a registered clearing agency or a derivatives clearing organization which are collateralized by security-based swap customers’ securities, to the extent of the member’s margin requirement at the registered clearing agency or derivatives clearing organization.

Note C. Item 3 must include in addition to monies payable against security-based swap customers’ securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

Note D. Item 4 must include in addition to security-based swap customers’ securities failed to receive the amount by which the market value of securities failed to receive and outstanding more than thirty (30) calendar days exceeds their contract value.

Note E.

(1) Debit balances in accounts carried for security-based swap customers must be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin requirements exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all accounts receivable; provided, however, the required reduction must not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for an account only to the extent it is not an excess margin security.
(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b)) or similar accounts carried on behalf of a security-based swap dealer, must be reduced by any deficits in such accounts (or if a credit, such credit must be increased) less any calls for margin, marks to the market, or other required deposits which are outstanding 5 business days or less.

(3) Debit balances in security-based swap customers’ accounts included in the formula under item 10 must be reduced by an amount equal to 1 percent of their aggregate value.

(4) Debit balances in accounts of household members and other persons related to principals of a broker or dealer and debit balances in accounts of affiliated persons of a broker or dealer must be excluded from the reserve formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in accounts (other than omnibus accounts) must be reduced by the amount by which any single security-based swap customer’s debit balance exceeds 25 percent (to the extent such amount is greater than $50,000) of the broker’s or dealer’s tentative net capital (i.e., net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (e.g., the separate accounts of an individual, accounts under common control or subject to cross guarantees) will be deemed to be a single security-based swap customer’s account for purposes of this provision.

If the registered national securities exchange or the registered national securities association having responsibility for examining the broker or dealer (“designated examining authority”) is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances in accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may, by order, grant a partial or plenary exception from this provision. The debit balance may be included in the reserve formula computation for five business days from the day the request is made.

(6) Debit balances of joint accounts, custodian accounts, participations in hedge funds or limited partnerships or similar type accounts or arrangements that include both assets of a person who would be excluded from the definition of security-based swap customer (“non-security-based swap customer”) and assets of a person or persons includible in the definition of security-based swap customer must be included in the Reserve Formula in the following manner: if the percentage ownership of the non-security-based swap customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-security-based swap customer must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula; if such percentage ownership is greater than 50 percent, then the entire debit balance must be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

Note F. Item 13 must include the amount of margin required and on deposit with Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by security-based swap customers’ securities.
Note G.

(a) Item 14 must include the amount of margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Act (15 U.S.C. 78q-1) or a derivatives clearing organization registered with the Commodity Futures Trading Commission under section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) for security-based swap customer accounts to the extent that the margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by security-based swap customers’ securities.

(b) Item 14 will apply only if the broker or dealer has the margin related to security futures products on deposit with:

(1) A registered clearing agency or derivatives clearing organization that:

(i) Maintains security deposits from clearing members in connection with regulated options or futures transactions and assessment power over member firms that equal a combined total of at least $2 billion, at least $500 million of which must be in the form of security deposits. For purposes of this Note G, the term “security deposits” refers to a general fund, other than margin deposits or their equivalent, that consists of cash or securities held by a registered clearing agency or derivative clearing organization;

(ii) Maintains at least $3 billion in margin deposits; or

(iii) Does not meet the requirements of paragraphs (b)(1)(i) through (b)(1)(ii) of this Note G, if the Commission has determined, upon a written request for exemption by or for the benefit of the broker or dealer, that the broker or dealer may utilize such a registered clearing agency or derivatives clearing organization. The Commission may, in its sole discretion, grant such an exemption subject to such conditions as are appropriate under the circumstances, if the Commission determines that such conditional or unconditional exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors; and

(2) A registered clearing agency or derivatives clearing organization that, if it holds funds or securities deposited as margin for security futures products in a bank, as defined in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)), obtains and preserves written notification from the bank at which it holds such funds and securities or at which such funds and securities are held on its behalf. The written notification will state that all funds and/or securities deposited with the bank as margin (including security-based swap customer security futures products margin), or held by the bank and pledged to such registered clearing agency or derivatives clearing agency as margin, are being held by the bank for the exclusive benefit of clearing members of the registered clearing agency or derivatives clearing organization (subject to the interest of such registered clearing agency or derivatives clearing organization therein), and are being kept separate from any other accounts maintained by the registered clearing agency or derivatives clearing organization with the bank. The written notification also will provide that such funds and/or securities will at no time be used directly or indirectly as security for a loan to the registered clearing agency or derivatives clearing organization by the bank, and will be subject to no right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. This provision, however, will not prohibit a registered clearing agency or derivatives clearing organization from pledging security-based swap customer funds or securities as collateral to a bank for any purpose that the rules of the Commission or the registered clearing agency or derivatives clearing organization otherwise permit; and

(3) A registered clearing agency or derivatives clearing organization that establishes, documents, and maintains:
(i) Safeguards in the handling, transfer, and delivery of cash and securities;

(ii) Fidelity bond coverage for its employees and agents who handle security-based swap customer funds or securities. In the case of agents of a registered clearing agency or derivatives clearing organization, the agent may provide the fidelity bond coverage; and

(iii) Provisions for periodic examination by independent public accountants; and

(4) A derivatives clearing organization that, if it is not otherwise registered with the Commission, has provided the Commission with a written undertaking, in a form acceptable to the Commission, executed by a duly authorized person at the derivatives clearing organization, to the effect that, with respect to the clearance and settlement of the security-based swap customer security futures products of the broker or dealer, the derivatives clearing organization will permit the Commission to examine the books and records of the derivatives clearing organization for compliance with the requirements set forth in § 240.15c3–3a, Note G. (b)(1) through (3).

(c) Item 14 will apply only if a broker or dealer determines, at least annually, that the registered clearing agency or derivatives clearing organization with which the broker or dealer has on deposit margin related to security futures products meets the conditions of this Note G.

Rule 15c3-4. Internal Risk Management Control Systems For OTC Derivatives Dealers.

(a) An OTC derivatives dealer shall establish, document, and maintain a system of internal risk management controls to assist it in managing the risks associated with its business activities, including market, credit, leverage, liquidity, legal, and operational risks.

(b) An OTC derivatives dealer shall consider the following when adopting its internal control system guidelines, policies, and procedures:

(1) The ownership and governance structure of the OTC derivatives dealer;
(2) The composition of the governing body of the OTC derivatives dealer;
(3) The management philosophy of the OTC derivatives dealer;
(4) The scope and nature of established risk management guidelines;
(5) The scope and nature of the permissible OTC derivatives activities;
(6) The sophistication and experience of relevant trading, risk management, and internal audit personnel;
(7) The sophistication and functionality of information and reporting systems; and
(8) The scope and frequency of monitoring, reporting, and auditing activities.

(c) An OTC derivatives dealer’s internal risk management control system shall include the following elements:

(1) A risk control unit that reports directly to senior management and is independent from business trading units;
(2) Separation of duties between personnel responsible for entering into a transaction and those responsible for recording the transaction in the books and records of the OTC derivatives dealer;
(3) Periodic reviews (which may be performed by internal audit staff) and annual reviews (which must be conducted by independent certified public accountants) of the OTC derivatives dealer’s risk management systems;

(4) Definitions of risk, risk monitoring, and risk management; and

(5) Written guidelines, approved by the OTC derivatives dealer’s governing body, that include and discuss the following:

(i) The OTC derivatives dealer’s consideration of the elements in paragraph (b) of this Rule 15c3-4;

(ii) The scope, and the procedures for determining the scope, of authorized activities or any nonquantitative limitation on the scope of authorized activities;

(iii) Quantitative guidelines for managing the OTC derivatives dealer’s overall risk exposure;

(iv) The type, scope, and frequency of reporting by management on risk exposures;

(v) The procedures for and the timing of the governing body’s periodic review of the risk monitoring and risk management written guidelines, systems, and processes;

(vi) The process for monitoring risk independent of the business or trading units whose activities create the risks being monitored;

(vii) The performance of the risk management function by persons independent from or senior to the business or trading units whose activities create the risks;

(viii) The authority and resources of the groups or persons performing the risk monitoring and risk management functions;

(ix) The appropriate response by management when internal risk management guidelines have been exceeded;

(x) The procedures to monitor and address the risk that an OTC derivatives transaction contract will be unenforceable;

(xi) The procedures requiring the documentation of the principal terms of OTC derivatives transactions and other relevant information regarding such transactions;

(xii) The procedures authorizing specified employees to commit the OTC derivatives dealer to particular types of transactions;

(xiii) The procedures to prevent the OTC derivatives dealer from engaging in any securities transaction that is not permitted under Exchange Act Rule 15a-1; and

(xiv) The procedures to prevent the OTC derivatives dealer from improperly relying on the exceptions to Exchange Act Rule 15a-1(c) and Exchange Act Rule 15a-1(d), including the procedures to determine whether a counterparty is acting in the capacity of principal or agent.

(d) Management must periodically review, in accordance with written procedures, the OTC derivatives dealer’s business activities for consistency with risk management guidelines including that:

(1) Risks arising from the OTC derivatives dealer’s OTC derivatives activities are consistent with prescribed guidelines;
(2) Risk exposure guidelines for each business unit are appropriate for the business unit;

(3) The data necessary to conduct the risk monitoring and risk management function as well as the valuation process over the OTC derivatives dealer’s portfolio of products is accessible on a timely basis and information systems are available to capture, monitor, analyze, and report relevant data;

(4) Procedures are in place to enable management to take action when internal risk management guidelines have been exceeded;

(5) Procedures are in place to monitor and address the risk that an OTC derivatives transaction contract will be unenforceable;

(6) Procedures are in place to identify and address any deficiencies in the operating systems and to contain the extent of losses arising from unidentified deficiencies;

(7) Procedures are in place to authorize specified employees to commit the OTC derivatives dealer to particular types of transactions, to specify any quantitative limits on such authority, and to provide for the oversight of their exercise of such authority;

(8) Procedures are in place to prevent the OTC derivatives dealer from engaging in any securities transaction that is not permitted under Exchange Act Rule 15a-1;

(9) Procedures are in place to prevent the OTC derivatives dealer from improperly relying on the exceptions to Exchange Act Rule 15a-1(c) and Exchange Act Rule 15a-1(d), including procedures to determine whether a counterparty is acting in the capacity of principal or agent;

(10) Procedures are in place to provide for adequate documentation of the principal terms of OTC derivatives transactions and other relevant information regarding such transactions;

(11) Personnel resources with appropriate expertise are committed to implementing the risk monitoring and risk management systems and processes; and

(12) Procedures are in place for the periodic internal and external review of the risk monitoring and risk management functions.

Rule 15c3-5. Risk Management Controls For Brokers or Dealers With Market Access.

(a) For the purpose of this section:

(1) The term market access shall mean (i) access to trading in securities on an exchange or alternative trading system as a result of being a member or subscriber of the exchange or alternative trading system, respectively; or (ii) access to trading in securities on an alternative trading system provided by a broker-dealer operator of an alternative trading system to a non-broker-dealer.

(2) The term regulatory requirements shall mean all federal securities laws, rules and regulations, and rules of self-regulatory organizations, that are applicable in connection with market access.

(b) A broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a
system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity. Such broker or dealer shall preserve a copy of its supervisory procedures and a written description of its risk management controls as part of its books and records in a manner consistent with § 240.17a-4(e)(7). A broker-dealer that routes orders on behalf of an exchange or alternative trading system for the purpose of accessing other trading centers with protected quotations in compliance with Rule 611 of Regulation NMS (§ 242.611) for NMS stocks, or in compliance with a national market system plan for listed options, shall not be required to comply with this rule with regard to such routing services, except with regard to paragraph (c)(1)(ii) of this section.

(c) The risk management controls and supervisory procedures required by paragraph (b) of this section shall include the following elements:

1. Financial Risk Management Controls and Supervisory Procedures. The risk management controls and supervisory procedures shall be reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access, including being reasonably designed to:

   i. Prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds; and

   ii. Prevent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.

2. Regulatory Risk Management Controls and Supervisory Procedures. The risk management controls and supervisory procedures shall be reasonably designed to ensure compliance with all regulatory requirements, including being reasonably designed to:

   i. Prevent the entry of orders unless there has been compliance with all regulatory requirements that must be satisfied on a pre-order entry basis;

   ii. Prevent the entry of orders for securities for a broker or dealer, customer, or other person if such person is restricted from trading those securities;

   iii. Restrict access to trading systems and technology that provide market access to persons and accounts pre-approved and authorized by the broker or dealer; and

   iv. Assure that appropriate surveillance personnel receive immediate post-trade execution reports that result from market access.

(d) The financial and regulatory risk management controls and supervisory procedures described in paragraph (c) of this section shall be under the direct and exclusive control of the broker or dealer that is subject to paragraph (b) of this section.

1. Notwithstanding the foregoing, a broker or dealer that is subject to paragraph (b) of this section may reasonably allocate, by written contract, after a thorough due diligence review, control over specific regulatory risk management controls and supervisory procedures described in paragraph (c)(2) of this section to a customer that is a registered broker or dealer, provided that such broker or dealer subject to paragraph (b) of this section has a reasonable basis for determining that such customer, based on its position in the transaction and relationship with an ultimate customer, has better access than the broker or dealer to that ultimate customer and its trading
information such that it can more effectively implement the specified controls or procedures.

(2) Any allocation of control pursuant to paragraph (d)(1) of this section shall not relieve a broker or dealer that is subject to paragraph (b) of this section from any obligation under this section, including the overall responsibility to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of market access.

(e) A broker or dealer that is subject to paragraph (b) of this section shall establish, document, and maintain a system for regularly reviewing the effectiveness of the risk management controls and supervisory procedures required by paragraphs (b) and (c) of this section and for promptly addressing any issues.

(1) Among other things, the broker or dealer shall review, no less frequently than annually, the business activity of the broker or dealer in connection with market access to assure the overall effectiveness of such risk management controls and supervisory procedures. Such review shall be conducted in accordance with written procedures and shall be documented. The broker or dealer shall preserve a copy of such written procedures, and documentation of each such review, as part of its books and records in a manner consistent with §240.17a-4(e)(7) and §240.17a-4(b), respectively.

(2) The Chief Executive Officer (or equivalent officer) of the broker or dealer shall, on an annual basis, certify that such risk management controls and supervisory procedures comply with paragraphs (b) and (c) of this section, and that the broker or dealer conducted such review, and such certifications shall be preserved by the broker or dealer as part of its books and records in a manner consistent with §240.17a-4(b).

(f) The Commission, by order, may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any broker or dealer, if the Commission determines that such exemption is necessary or appropriate in the public interest consistent with the protection of investors.

Rule 15c6-1. Settlement Cycle.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers’ acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the second business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.

(b) Paragraphs (a) and (c) of this section shall not apply to contracts:

(1) For the purchase or sale of limited partnership interests that are not listed on an exchange or for which quotations are not disseminated through an automated quotation system of a registered securities association;

(2) For the purchase or sale of securities that the Commission may from time to time, taking into account then existing market practices, exempt by order from the requirements of paragraph (a) of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such exemption is consistent with the public interest and the protection of investors.

(c) Paragraph (a) of this section shall not apply to contracts for the sale for cash of securities that are priced after 4:30 p.m. Eastern time on the date such securities are
Rule 15d-2

Every registrant under the Securities Act of 1933 shall file an annual report, on the appropriate form authorized or prescribed therefor, for the fiscal year in which the registration statement under that Act became effective and for each fiscal year thereafter, unless the registrant is exempt from such filing by Section 15(d) of the Securities Exchange Act of 1934 or rules thereunder. Annual reports shall be filed within the period specified in the appropriate report form.


(a) If the registration statement under the Securities Act of 1933 did not contain certified financial statements for the registrant’s last full fiscal year (or for the life of the registrant if less than a full fiscal year) preceding the fiscal year in which the registration statement became effective, the registrant shall, within 90 days after the effective date of the registration statement, file a special report furnishing certified financial statements for such last full fiscal year or other period, as the case may be, meeting the requirements of the form appropriate for annual reports of the registrant. If the registrant is a foreign private issuer as defined in § 230.405 of this chapter, then the special financial report shall be filed on the appropriate form for annual reports of the registrant and shall be filed by the later of 90 days after the date on which the registration statement became effective, or four months following the end of the registrant’s latest full fiscal year.

(b) The report shall be filed under cover of the facing sheet of the form appropriate for annual reports of the registrant, shall indicate on the facing sheet that it contains only financial statements for the fiscal year in question, and shall be signed in accordance with the requirements of the annual report form.

*Effective November 5, 2018, Rule 15d-2 is amended by revising paragraph (a) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.

**Effective November 5, 2018, Rule 15d-2 is amended by revising paragraph (a) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
Rule 15d-3. Reports For Depositary Shares Registered on Form F-6.

Annual and other reports are not required with respect to Depositary Shares registered on Form F-6. The exemption in this section does not apply to any deposited securities registered on any other form under the Securities Act of 1933.

Rule 15d-4. Reporting By Form 40-F Registrants.

A registrant that is eligible to use Forms 40-F and 6-K and files reports in accordance therewith shall be deemed to satisfy the requirements of Regulation 15D.

Rule 15d-5. Reporting By Successor Issuers.

(a) Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of any issuer that is not required to file reports pursuant to Section 15(d) (15 U.S.C. 78o(d)) of the Act are issued to the holders of any class of securities of another issuer that is required to file such reports, the duty to file reports pursuant to such section shall be deemed to have been assumed by the issuer of the class of securities so issued. The successor issuer shall, after the consummation of the succession, file reports in accordance with Section 15(d) of the Act and the rules and regulations thereunder, unless that issuer is exempt from filing such reports or the duty to file such reports is suspended under Section 15(d) of the Act.

(b) An issuer that is deemed to be a successor issuer according to paragraph (a) of this rule shall file reports on the same forms as the predecessor issuer except as follows:

(1) An issuer that is not a foreign issuer shall not be eligible to file on Form 20-F.

(2) A foreign private issuer shall be eligible to file on Form 20-F.

(c) The provisions of paragraph (a) of this section shall not apply to an issuer of securities in connection with a succession that was registered on Form F-8 (§ 239.38 of this chapter), Form F-10 (§ 239.40 of this chapter) or Form F-80 (§ 239.41 of this chapter).

Rule 15d-6. Suspension of Duty to File Reports.

If the duty of any issuer to file reports pursuant to Section 15(d) of the Act as to any fiscal year is suspended as provided in Section 15(d) of the Act, such issuer shall, within 30 days after the beginning of the first fiscal year, file a notice on Form 15 informing the Commission of such suspension unless Form 15 has already been filed pursuant to Rule 12h-3. If the suspension resulted from the issuer’s merger into, or consolidation with, another issuer or issuers, the notice shall be filed by the successor issuer.

OTHER REPORTS

Rule 15d-10. Transition Reports.*

(a) Every issuer that changes its fiscal closing date shall file a report covering the resulting transition period between the closing date of its most recent fiscal year and the

*Effective November 5, 2018, Rule 15d-10 is amended by revising paragraphs (b) and (g)(3) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
opening date of its new fiscal year; provided, however, that an issuer shall file an annual report for any fiscal year that ended before the date on which the issuer determined to change its fiscal year end. In no event shall the transition report cover a period of 12 or more months.

*(b) The report pursuant to this section shall be filed for the transition period not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report shall be filed on the form appropriate for annual reports of the issuer, shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements for the transition period filed therewith shall be audited. Financial statements, which may be unaudited, shall be filed for the comparable period of the prior year, or a footnote, which may be unaudited, shall state for the comparable period of the prior year, revenues, gross profits, income taxes, income or loss from continuing operations and net income or loss. The effects of any discontinued operations as classified under the provisions of generally accepted accounting principles also shall be shown, if applicable. Per share data based upon such income or loss and net income or loss shall be presented in conformity with applicable accounting standards. Where called for by the time span to be covered, the comparable period financial statements or footnote shall be included in subsequent filings.

(c) If the transition period covers a period of less than six months, in lieu of the report required by paragraph (b) of this section, a report may be filed for the transition period on Form 10-Q (§ 249.308 of this chapter) not more than the number of days specified in paragraph (j) of this section after either the close of the transition period or the date of the determination to change the fiscal closing date, whichever is later. The report on Form 10-Q shall cover the period from the close of the last fiscal year end and shall indicate clearly the period covered. The financial statements filed therewith need not be audited but, if they are not audited, the issuer shall file with the first annual report for the newly adopted fiscal year separate audited statements of income and cash flows covering the transition period. The notes to financial statements for the transition period included in such first annual report may be integrated with the notes to financial statements for the full fiscal period. A separate audited balance sheet as of the end of the transition period shall be filed in the annual report only if the audited balance sheet as of the end of the fiscal year before the transition period is not filed. Schedules need not be filed in transition reports on Form 10-Q.

(d) Notwithstanding the foregoing in paragraphs (a), (b), and (c), if the transition period covers a period of one month or less, the issuer need not file a separate transition report if either:

(1) The first report required to be filed by the issuer for the newly adopted fiscal year after the date of the determination to change the fiscal year end is an annual report, and that report covers the transition period as well as the fiscal year; or

Effective June 1, 2018, Rule 15d-10 is amended in paragraph (h) by removing the phrase “Rule 30b1-1 (§ 270.30b1-1 of this chapter)” and adding in its place “Rule 30a-1 (§ 270.30a-1 of this chapter)” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.

*Effective November 5, 2018, Rule 15d-10 is amended by revising paragraph (b) to facilitate the disclosure of information to investors and simplify compliance without significantly altering the total mix of information provided to investors. See SEC Release Nos. 33-10532; 34-83875; IC-33203; August 17, 2018.
(2)(i) The issuer files with the first annual report for the newly adopted fiscal year separate audited statements of income and cash flows covering the transition period; and

(ii) The first report required to be filed by the issuer for the newly adopted fiscal year after the date of the determination to change the fiscal year end is a quarterly report on Form 10-Q; and

(iii) Information on the transition period is included in the issuer’s quarterly report on Form 10-Q for the first quarterly period (except the fourth quarter) of the newly adopted fiscal year that ends after the date of the determination to change the fiscal year. The information covering the transition period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for the transition period.

(e) Every issuer required to file quarterly reports on Form 10-Q pursuant to § 240.15d-13 that changes its fiscal year end shall:

(1) File a quarterly report on Form 10-Q within the time period specified in General Instruction A.1. to that form for any quarterly period (except the fourth quarter) of the old fiscal year that ends before the date on which the issuer determined to change its fiscal year end, except that the issuer need not file such quarterly report if the date on which the quarterly period ends also is the date on which the transition period ends;

(2) File a quarterly report on Form 10-Q within the time specified in General Instruction A.1 to that form for each quarterly period of the old fiscal year within the transition period. In lieu of a quarterly report for any quarter of the old fiscal year within the transition period, the issuer may file a quarterly report on Form 10-Q for any period of three months within the transition period that coincides with a quarter of the newly adopted fiscal year if the quarterly report is filed within the number of days specified in paragraph (j) of this section after the end of such three month period, provided the issuer thereafter continues filing quarterly reports on the basis of the quarters of the newly adopted fiscal year;

(3) Commence filing quarterly reports for the quarters of the new fiscal year no later than the quarterly report for the first quarter of the new fiscal year that ends after the date on which the issuer determined to change the fiscal year end; and

(4) Unless such information is or will be included in the transition report, or the first annual report on Form 10-K for the newly adopted fiscal year, include in the initial quarterly report on Form 10-Q for the newly adopted fiscal year information on any period beginning on the first day after the period covered by the issuer’s final quarterly report on Form 10-Q or annual report on Form 10-K for the old fiscal year. The information covering such period required by Part II and Item 2 of Part I may be combined with the information regarding the quarter. However, the financial statements required by Part I, which may be unaudited, shall be furnished separately for such period.

Note to Paragraphs (c) and (e): If it is not practicable or cannot be cost-justified to furnish in a transition report on Form 10-Q or a quarterly report for the newly adopted fiscal year financial statements for corresponding periods of the prior year where required, financial statements may be furnished for the quarters of the preceding fiscal year that most nearly are comparable if the issuer furnishes an adequate discussion of seasonal and other factors that could affect the comparability of information or trends reflected, an assessment of the comparability of the data, and a representation as to the reason recasting has not been undertaken.

(f) Every successor issuer that has a different fiscal year from that of its predecessor(s) shall file a transition report pursuant to this section, containing the required
information about each predecessor, for the transition period, if any, between the close of the fiscal year covered by the last annual report of each predecessor and the date of succession. The report shall be filed for the transition period on the form appropriate for annual reports of the issuer not more than the number of days specified in paragraph (j) of this section after the date of the succession, with financial statements in conformity with the requirements set forth in paragraph (b) of this section. If the transition period covers a period of less than six months, in lieu of a transition report on the form appropriate for the issuer’s annual reports, the report may be filed for the transition period on Form 10-Q not more than the number of days specified in paragraph (j) of this section after the date of the succession, with financial statements in conformity with the requirements set forth in paragraph (c) of this section. Notwithstanding the foregoing, if the transition period covers a period of one month or less, the successor issuer need not file a separate transition report if the information is reported by the successor issuer in conformity with the requirements set forth in paragraph (d) of this section.

(g)(1) Paragraphs (a) through (f) of this rule shall not apply to foreign private issuers.

(2) Every foreign private issuer that changes its fiscal closing date shall file a report covering the resulting transition period between the closing date of its most recent fiscal year and the opening date of its new fiscal year. In no event shall a transition report cover a period longer than 12 months.

*(3) The report for the transition period shall be filed on Form 20-F (§ 249.220f of this chapter) responding to all items to which such issuer is required to respond when Form 20-F is used as an annual report. The financial statements for the transition period filed therewith shall be audited. The report shall be filed within four months after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later.

(4) If the transition period covers a period of six or fewer months, in lieu of the report required by paragraph (g)(3), a report for the transition period may be filed on Form 20-F responding to Items 5, 8.A.7., 13, 14, and 17 or 18 within three months after either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date, whichever is later. The financial statements required by either Item 17 or Item 18 shall be furnished for the transition period. Such financial statements may be unaudited and condensed as permitted in Article 10 of Regulation S-X, but if the financial statements are unaudited and condensed, the issuer shall file with the first annual report for the newly adopted fiscal year separate audited statements of income and cash flows covering the transition period.

(5) Notwithstanding the foregoing in paragraphs (g)(2), (3), and (4), if the transition period covers a period of one month or less, a foreign private issuer need not file a separate transition report if the first annual report for the newly adopted fiscal year covers the transition period as well as the fiscal year.

**(h) The provisions of this rule shall not apply to investment companies required to file reports pursuant to Rule 30b1-1 (§ 270.30b1-1 of this chapter) [**Rule 30a-1
No filing fee shall be required for a transition report filed pursuant to this rule.

For transition reports to be filed on the form appropriate for annual reports of the issuer, the number of days shall be:

(i) 60 days (75 days for fiscal years ending before December 15, 2006) for large accelerated filers (as defined in § 240.12b-2);

(ii) 75 days for accelerated filers (as defined in § 240.12b-2); and

(iii) 90 days for all other issuers; and

(2) For transition reports to be filed on Form 10-Q (§ 249.308 of this chapter), the number of days shall be:

(i) 40 days for large accelerated filers and accelerated filers (as defined in § 240.12b-2); and

(ii) 45 days for all other issuers.

(m) Paragraphs (a) through (g) of this section shall not apply to asset-backed issuers.

(2) Every asset-backed issuer that changes its fiscal closing date shall file a report covering the resulting transition period between the closing date of its most recent fiscal year and the opening date of its new fiscal year. In no event shall a transition report cover a period longer than 12 months.

(3) The report for the transition period shall be filed on Form 10-K (§ 249.310 of this chapter) responding to all items to which such asset-backed issuer is required to respond pursuant to General Instruction J. of Form 10-K. Such report shall be filed within 90 days after the later of either the close of the transition period or the date on which the issuer made the determination to change the fiscal closing date.

(4) Notwithstanding the foregoing in paragraphs (k)(2) and (k)(3) of this section, if the transition period covers a period of one month or less, an asset-backed issuer need not file a separate transition report if the first annual report for the newly adopted fiscal year covers the transition period as well as the fiscal year.

(5) Any obligation of the asset-backed issuer to file distribution reports pursuant to § 240.15d-17 will continue to apply regardless of a change in the asset-backed issuer’s fiscal closing date.

Note 1: In addition to the report or reports required to be filed pursuant to this section, every issuer, except a foreign private issuer or an investment company required to file reports pursuant to § 270.30b1-1 of this chapter, that changes its fiscal closing date is required to file a Form 8-K (§ 249.308 of this chapter) report that includes the information required by Item 5.03 of Form 8-K within the period specified in General Instruction B.1. to that form.

Additional Note: The report or reports to be filed pursuant to this Rule 15d-10 must include the certification required by Exchange Act Rule 15d-14.
Rule 15d-11. Current Reports on Form 8-K.*

(a) Except as provided in paragraph (b) of this rule, every registrant subject to Rule 15d-1 shall file a current report on Form 8-K within the period specified in that form unless substantially the same information as that required by Form 8-K has been previously reported by the registrant.

***(b) This section shall not apply to foreign governments, foreign private issuers required to make reports on Form 6-K (17 CFR 249.306) pursuant to §240.15d-16, issuers of American Depositary Receipts for securities of any foreign issuer, or investment companies required to file reports pursuant to §270.30b1-1 [**§270.30a-1] of this chapter under the Investment Company Act of 1940, except where such an investment company is required to file:

1. Notice of a blackout period pursuant to §245.104 of this chapter;

2. Disclosure pursuant to Instruction 2 to §240.14a-11(b)(1) of information concerning outstanding shares and voting; or

3. Disclosure pursuant to Instruction 2 to §240.14a-11(b)(10) of the date by which a nominating shareholder or nominating shareholder group must submit the notice required pursuant to §240.14a-11(b)(10).

(c) No failure to file a report on Form 8-K that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06, 4.02(a), 5.02(e) or 6.03 of Form 8-K shall be deemed to be a violation of 15 U.S.C. 78j(b) and §240.10b-5.

Rule 15d-12. Quarterly Reports of Investment Companies.

[Reserved.]

Rule 15d-13. Quarterly Reports on Form 10-Q (§249.308 of this Chapter).**

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer that has securities registered pursuant to the Securities Act and is required to file annual reports pursuant to section 15(d) of the Act on Form 10-K (§249.310 of this chapter) shall file a quarterly report on Form 10-Q (§249.308 of this chapter) within the period specified in General Instruction A.1 to that form for each of the first three quarters of each fiscal year of the issuer, commencing with the first fiscal quarter following the most recent fiscal year for which full financial statements were included in the registration statement, or, if the registration statement included financial statements for an interim period after the most recent fiscal year end meeting the requirements of Article 10 of

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*Effective June 1, 2018, Rule 15d-11 is amended in the introductory text of paragraph (b) by removing the phrase “§270.30b1-1” and adding in its place “§270.30a-1” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.

**Effective June 1, 2018, Rule 15d-11 is amended in the introductory text of paragraph (b) by removing the phrase “§270.30b1-1” and adding in its place “§270.30a-1” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.

***Effective June 1, 2018, Rule 15d-13 is amended in paragraph (b)(1) by removing the phrase “§270.30b1-1” and adding in its place “§270.30a-1 of this chapter” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.
Regulation S-X, or Rule 8-03 of Regulation S-X for smaller reporting companies, for
the first fiscal quarter after the quarter reported upon in the registration statement. The
first quarterly report of the issuer shall be filed either within 45 days after the effective
date of the registration statement or on or before the date on which such report would
have been required to be filed if the issuer had been required to file reports on Form
10-Q as of its last fiscal quarter, whichever is later.

(b) The provisions of this rule shall not apply to the following issuers:

*(1) Investment companies required to file reports pursuant to § 270.30b1-1
[*§ 270.30a-1 of this chapter];
(2) Foreign private issuers required to file reports pursuant to § 240.15d-16; and
(3) Asset-backed issuers required to file reports pursuant to § 240.15d-17.
(c) Part I of the quarterly reports on Form 10-Q need not be filed by:

(1) Mutual life insurance companies; or
(2) Mining companies not in the production stage but engaged primarily in the
exploration for the development of mineral deposits other than oil, gas or coal, if all of
the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the
two years immediately prior thereto; except that being in production for an aggregate
period of not more than eight months over the three-year period shall not be a violation
of this condition.
(ii) Receipts from the sale of mineral products or from the operations of mineral
producing properties by the registrant and its subsidiaries combined have not exceeded
$500,000 in any of the most recent six years and have not aggregated more than
$1,500,000 in the most recent six fiscal years.
(d) Notwithstanding the foregoing provisions of this section, the financial infor-
mation required by Part I of Form 10-Q shall not be deemed to be “filed” for the
purpose of section 18 of the Act or otherwise subject to the liabilities of that section of
the Act, but shall be subject to all other provisions of the Act.
(e) Notwithstanding the foregoing provisions of this section, the financial infor-
mation required by Part I of Form 10-Q, or financial information submitted in lieu
thereof pursuant to paragraph (d) of this section, shall not be deemed to be “filed” for
the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of
the Act, but shall be subject to all other provisions of the Act.

Rule 15d-14. Certification of Disclosure in Annual and Quarterly
Reports.**

(a) Each report, including transition reports, filed on Form 10-Q, Form 10-K, Form
20-F or Form 40-F (§ 249.308a, 249.310, 249.220f or 249.240f of this chapter) under

*Effective June 1, 2018, Rule 15d-13 is amended in paragraph (b)(1) by removing the phrase
“§ 270.30b1-1” and adding in its place “§ 270.30a-1 of this chapter” as part of amendments to
modernize the reporting and disclosure of information by registered investment companies. See
SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See

**Effective September 17, 2018, Rule 15d-14 is amended by revising paragraph (f) as part of
amendments to the SEC’s eXensible Business Reporting Language (XBRL) requirements for
operating companies and funds. See SEC Release Nos. 33-10514; 34-83551; IC-33139; June 28,
section 15(d) of the Act (15 U.S.C. 78o(d)), other than a report filed by an Asset-Backed Issuer (as defined in § 229.1101 of this chapter) or a report on Form 20-F filed under § 240.15d-19, must include certifications in the form specified in the applicable exhibit filing requirements of such report, and such certifications must be filed as an exhibit to such report. Each principal executive and principal financial officer of the issuer, or persons performing similar functions, at the time of filing of the report must sign a certification. The principal executive and principal financial officers of an issuer may omit the portion of the introductory language in paragraph 4 as well as language in paragraph 4(b) of the certification that refers to the certifying officers’ responsibility for designing, establishing and maintaining internal control over financial reporting for the issuer until the issuer becomes subject to the internal control over financial reporting requirements in § 240.13a-15 or 240.15d-15.

(b) Each periodic report containing financial statements filed by an issuer pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) must be accompanied by the certifications required by Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) and such certifications must be furnished as an exhibit to such report as specified in the applicable exhibit requirements for such report. Each principal executive and principal financial officer of the issuer (or equivalent thereof) must sign a certification. This requirement may be satisfied by a single certification signed by an issuer’s principal executive and principal financial officers.

(c) A person required to provide a certification specified in paragraph (a), (b) or (d) of this section may not have the certification signed on his or her behalf pursuant to a power of attorney or other form of confirming authority.

(d) Each annual report and transition report filed on Form 10-K (§ 249.310 of this chapter) by an asset-backed issuer under section 15(d) of the Act (15 U.S.C. 78o(d)) must include a certification in the form specified in the applicable exhibit filing requirements of such report and such certification must be filed as an exhibit to such report. Terms used in paragraphs (d) and (e) of this section have the same meaning as in Item 1101 of Regulation AB (§ 229.1101 of this chapter).

(e) With respect to asset-backed issuers, the certification required by paragraph (d) of this section must be signed by either:

(1) The senior officer in charge of securitization of the depositor if the depositor is signing the report; or

(2) The senior officer in charge of the servicing function of the servicer if the servicer is signing the report on behalf of the issuing entity. If multiple servicers are involved in servicing the pool assets, the senior officer in charge of the servicing function of the master servicer (or entity performing the equivalent function) must

2018. Compliance Dates: (1) Inline XBRL for operating companies: (a) Large accelerated filers that use U.S. GAAP will be required to comply beginning with fiscal periods ending on or after June 15, 2019; (b) Accelerated filers that use U.S. GAAP will be required to comply beginning with fiscal periods ending on or after June 15, 2020; (c) All other filers will be required to comply beginning with fiscal periods ending on or after June 15, 2021; (d) Filers will be required to comply beginning with their first Form 10-Q filed for a fiscal period ending on or after the applicable compliance date. (2) Inline XBRL for funds: (a) Large fund groups (net assets of $1 billion or more as of the end of their most recent fiscal year) will be required to comply on or after September 17, 2020; (b) All other funds will be required to comply on or after September 17, 2021. The amendments also eliminate the 15 business day filing period for risk/return summary XBRL data, so that the data will be more timely available to the public. (3) The requirement for operating companies and funds to post XBRL data on their websites is eliminated on September 17, 2018.

(a) Every issuer that files reports under section 15(d) of the Act (15 U.S.C. 78o(d)), other than an Asset Backed Issuer (as defined in § 229.1101 of this chapter), a small business investment company registered on Form N-5 (§§ 239.24 and 274.5 of this chapter), or a unit investment trust as defined in section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(2)), must maintain disclosure controls and procedures (as defined in paragraph (e) of this section) and, if the issuer either had been required to file an annual report pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)) for the prior fiscal year or had filed an annual report with the Commission for the prior fiscal year, internal control over financial reporting (as defined in paragraph (f) of this section).

(b) Each such issuer’s management must evaluate, with the participation of the issuer’s principal executive and principal financial officers, or persons performing similar functions, the effectiveness of the issuer’s disclosure controls and procedures, as of the end of each fiscal quarter, except that management must perform this evaluation:

(1) In the case of a foreign private issuer (as defined in § 240.3b-4) as of the end of each fiscal year; and

(2) In the case of an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), within the 90-day period prior to the filing date of each report requiring certification under § 270.30a-2 of this chapter.

(c) The management of each such issuer, that either had been required to file an annual report pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)) for the prior fiscal year or previously had filed an annual report with the Commission for the prior

*Effective September 17, 2018, Rule 15d-14 is amended by revising paragraph (f) as part of amendments to the SEC’s eXtensible Business Reporting Language (XBRL) requirements for operating companies and funds. The amended version of paragraph (f) follows the unamended version. See SEC Release Nos. 33-10514; 34-83551; IC-33139; June 28, 2018. Compliance Dates: (1) Inline XBRL for operating companies: (a) Large accelerated filers that use U.S. GAAP will be required to comply beginning with fiscal periods ending on or after June 15, 2019; (b) Accelerated filers that use U.S. GAAP will be required to comply beginning with fiscal periods ending on or after June 15, 2020; (c) All other filers will be required to comply beginning with fiscal periods ending on or after June 15, 2021; (d) Filers will be required to comply beginning with their first Form 10-Q filed for a fiscal period ending on or after the applicable compliance date. (2) Inline XBRL for funds: (a) Large fund groups (net assets of $1 billion or more as of the end of their most recent fiscal year) will be required to comply on or after September 17, 2020; (b) All other funds will be required to comply on or after September 17, 2021. The amendments also eliminate the 15 business day filing period for risk/return summary XBRL data, so that the data will be more timely available to the public. (3) The requirement for operating companies and funds to post XBRL data on their websites is eliminated on September 17, 2018.
fiscal year, other than an investment company registered under section 8 of the Investment Company Act of 1940, must evaluate, with the participation of the issuer’s principal executive and principal financial officers, or persons performing similar functions, the effectiveness, as of the end of each fiscal year, of the issuer’s internal control over financial reporting. The framework on which management’s evaluation of the issuer’s internal control over financial reporting is based must be a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment. Although there are many different ways to conduct an evaluation of the effectiveness of internal control over financial reporting to meet the requirements of this paragraph, an evaluation that is conducted in accordance with the interpretive guidance issued by the Commission in Release No. 34-55929 will satisfy the evaluation required by this paragraph.

(d) The management of each such issuer that previously either had been required to file an annual report pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)) for the prior fiscal year or previously had filed an annual report with the Commission for the prior fiscal year, other than an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8), must evaluate, with the participation of the issuer’s principal executive and principal financial officers, or persons performing similar functions, any change in the issuer’s internal control over financial reporting, that occurred during each of the issuer’s fiscal quarters, or fiscal year in the case of a foreign private issuer, that has materially affected, or is reasonably likely to materially affect, the issuer’s internal control over financial reporting.

(e) For purposes of this section, the term disclosure controls and procedures means controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Act (15 U.S.C. 78a et seq.) is recorded, processed, summarized and reported, within the time periods specified in the Commission’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Act is accumulated and communicated to the issuer’s management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

(f) The term internal control over financial reporting is defined as a process designed by, or under the supervision of, the issuer’s principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer’s board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

(1) Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(2) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and

(3) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer’s assets that could have a material effect on the financial statements.
Rule 15d-16. Reports of Foreign Private Issuers on Form 6-K.*

(a) Every foreign private issuer which is subject to Rule 15d-1 shall make reports on Form 6-K, except that this rule shall not apply to:

**(1) Investment companies required to file reports pursuant to Rule 30b1-1 [17 CFR 270.30b1-1] [§ 270.30a-1 of this chapter];

(2) Issuers of American depositary receipts for securities of any foreign issuer; or

(3) Asset-backed issuers, as defined in § 229.1101 of this chapter.

(b) Such reports shall be transmitted promptly after the information required by Form 6-K is made public by the issuer, by the country of its domicile or under the laws of which it was incorporated or organized or by a foreign securities exchange with which the issuer has filed the information.

(c) Reports furnished pursuant to this rule shall not be deemed to be “filed” for the purpose of Section 18 of the Act or otherwise subject to the liabilities of that section.

Rule 15d-17. Reports of Asset-Backed Issuers on Form 10-D (§ 249.312 of this Chapter).

Every asset-backed issuer subject to § 240.15d-1 shall make reports on Form 10-D (§ 249.312 of this chapter). Such reports shall be filed within the period specified in Form 10-D.


(a) This section applies to every class of asset-backed securities subject to the reporting requirements of section 15(d) of the Act (15 U.S.C. 78o(d)). Terms used in this section have the same meaning as in Item 1101 of Regulation AB (§ 229.1101 of this chapter).

(b) Reports on Assessments of Compliance With Servicing Criteria For Asset-Backed Securities Required. With regard to a class of asset-backed securities subject to the reporting requirements of section 15(d) of the Act, the annual report on Form 10-K (§ 249.308 of this chapter) for such class must include from each party participating in the servicing function a report regarding its assessment of compliance with the servicing criteria specified in paragraph (d) of Item 1122 of Regulation AB (§ 229.1122(d) of this chapter), as of and for the period ending the end of each fiscal year, with respect to asset-backed securities transactions taken as a whole involving the party participating in the servicing function and that are backed by the same asset type backing the class of asset-backed securities (including the asset-backed securities transaction that is to be the subject of the report on Form 10-K for that fiscal year).

*Effective June 1, 2018, Rule 15d-16 is amended in paragraph (a)(1) by removing the phrase “Rule 30b1-1 [17 CFR 270.30b1-1]” and adding in its place “§ 270.30a-1 of this chapter” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.

**Effective June 1, 2018, Rule 15d-16 is amended in paragraph (a)(1) by removing the phrase “Rule 30b1-1 [17 CFR 270.30b1-1]” and adding in its place “§ 270.30a-1 of this chapter” as part of amendments to modernize the reporting and disclosure of information by registered investment companies. See SEC Release Nos. 33-10231; 34-79095; IC-32314; October 13, 2016. Compliance Dates: See Section II.H. of SEC Release No. 33-10231.
Attestation Reports on Assessments of Compliance With Servicing Criteria For Asset-Backed Securities Required. With respect to each report included pursuant to paragraph (b) of this section, the annual report on Form 10-K must also include a report by a registered public accounting firm that attests to, and reports on, the assessment made by the asserting party. The attestation report on assessment of compliance with servicing criteria for asset-backed securities must be made in accordance with standards for attestation engagements issued or adopted by the Public Company Accounting Oversight Board.

Note to § 240.15d-18. If multiple parties are participating in the servicing function, a separate assessment report and attestation report must be included for each party participating in the servicing function. A party participating in the servicing function means any entity (e.g., master servicer, primary servicers, trustees) that is performing activities that address the criteria in paragraph (d) of Item 1122 of Regulation AB (§ 229.1122(d) of this chapter), unless such entity’s activities relate only to 5% or less of the pool assets.

Rule 15d-19. Reports By Shell Companies on Form 20-F.

Every foreign private issuer that was a shell company, other than a business combination related shell company, immediately before a transaction that causes it to cease to be a shell company shall, within four business days of completion of that transaction, file a report on Form 20-F (§ 249.220f of this chapter) containing the information that would be required if the issuer were filing a form for registration of securities on Form 20-F to register under the Act all classes of the issuer’s securities subject to the reporting requirements of section 13 (15 U.S.C. 78m) or section 15(d) (15 U.S.C. 78o(d)) of the Act upon consummation of the transaction, with such information reflecting the registrant and its securities upon consummation of the transaction.

Rule 15d-20. Plain English Presentation of Specified Information.

(a) Any information included or incorporated by reference in a report filed under section 15(d) of the Act (15 U.S.C. 78o(d)) that is required to be disclosed pursuant to Item 402, 403, 404 or 407 of Regulation S-K (§ 229.402, 229.403, 229.404 or 229.407 of this chapter) must be presented in a clear, concise and understandable manner. You must prepare the disclosure using the following standards:

(1) Present information in clear, concise sections, paragraphs and sentences;

(2) Use short sentences;

(3) Use definite, concrete, everyday words;

(4) Use the active voice;

(5) Avoid multiple negatives;

(6) Use descriptive headings and subheadings;

(7) Use a tabular presentation or bullet lists for complex material, wherever possible;

(8) Avoid legal jargon and highly technical business and other terminology;

(9) Avoid frequent reliance on glossaries or defined terms as the primary means of explaining information. Define terms in a glossary or other section of the document only if the meaning is unclear from the context. Use a glossary only if it facilitates understanding of the disclosure; and
(10) In designing the presentation of the information you may include pictures, logos, charts, graphs and other design elements so long as the design is not misleading and the required information is clear. You are encouraged to use tables, schedules, charts and graphic illustrations that present relevant data in an understandable manner, so long as such presentations are consistent with applicable disclosure requirements and consistent with other information in the document. You must draw graphs and charts to scale. Any information you provide must not be misleading.

(b) [Reserved.]

Note to § 240.15d-20. In drafting the disclosure to comply with this section, you should avoid the following:

1. Legalistic or overly complex presentations that make the substance of the disclosure difficult to understand;

2. Vague “boilerplate” explanations that are imprecise and readily subject to different interpretations;

3. Complex information copied directly from legal documents without any clear and concise explanation of the provision(s); and

4. Disclosure repeated in different sections of the document that increases the size of the document but does not enhance the quality of the information.


(a) Separate annual and other reports need not be filed pursuant to Section 15(d) of the Act with respect to any employee stock purchase, savings or similar plan, provided:

(1) The issuer of the stock or other securities offered to employees through their participation in the plan files annual reports on Form 10-K (§ 249.310 of this chapter); and

(2) Such issuer furnishes, as a part of its annual report on such form or as an amendment thereto, the financial statements required by Form 11-K with respect to the plan.

(b) If the procedure permitted by this rule is followed, the financial statements required by Form 11-K with respect to the plan shall be filed within 120 days after the end of the fiscal year of the plan, either as a part of or as an amendment to the annual report of the issuer for its last fiscal year, provided that if the fiscal year of the plan ends within 62 days prior to the end of the fiscal year of the issuer, such information, financial statements and exhibits may be furnished as a part of the issuer’s next annual report. If a plan subject to the Employee Retirement Income Security Act of 1974 uses the procedure permitted by this rule, the financial statements required by Form 11-K shall be filed within 180 days after the plan’s fiscal year end.


(a) With respect to an offering of asset-backed securities registered pursuant to § 230.415(a)(1)(vii) or § 230.415(a)(1)(xii) of this chapter:

(1) Annual and other reports need not be filed pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) regarding any class of securities to which such registration statement relates until the first bona fide sale in a takedown of securities under the registration statement; and
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(2) The starting and suspension dates for any reporting obligation under section 15(d) of the Act (15 U.S.C. 78o(d)) with respect to a takedown of any class of asset-backed securities are determined separately for each takedown of securities under the registration statement.

(b) The duty to file annual and other reports pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) regarding any class of asset-backed securities is suspended:

(1) As to any semi-annual fiscal period, if, at the beginning of the semi-annual fiscal period, other than a period in the fiscal year within which the registration statement became effective, or, for offerings conducted pursuant to § 230.415(a)(1)(vii) or § 230.415(a)(1)(xii), the takedown for the offering occurred, there are no asset-backed securities of such class that were sold in a registered transaction held by non-affiliates of the depositor and a certification on Form 15 (17 CFR 249.323) has been filed; or

(2) When there are no asset-backed securities of such class that were sold in a registered transaction still outstanding, immediately upon filing with the Commission a certification on Form 15 (17 CFR 249.323) if the issuer of such class has filed all reports required by Section 13(a), without regard to Rule 12b-25 (17 CFR 249.322), for the shorter of its most recent three fiscal years and the portion of the current year preceding the date of filing Form 15, or the period since the issuer became subject to such reporting obligation. If the certification on Form 15 is subsequently withdrawn or denied, the issuer shall, within 60 days, file with the Commission all reports which would have been required if such certification had not been filed.

Note 1 to Paragraph (b): Securities held of record by a broker, dealer, bank or nominee for any of them for the accounts of customers shall be considered as held by the separate accounts for which the securities are held.

Note 2 to Paragraph (b): An issuer may not suspend reporting if the issuer and its affiliates acquire and resell securities as part of a plan or scheme to evade the reporting obligations of Section 15(d).

(c) This section does not affect any other reporting obligation applicable with respect to any classes of securities from additional takedowns under the same or different registration statements or any reporting obligation that may be applicable pursuant to section 12 of the Act (15 U.S.C. 78l).


(a) Regarding a class of asset-backed securities, if the asset pool for the asset-backed securities includes a pool asset representing an interest in or the right to the payments or cash flows of another asset pool, then no separate annual and other reports need be filed pursuant to section 15(d) of the Act (15 U.S.C. 78o(d)) because of the separate registration of the distribution of the pool asset under the Securities Act (15 U.S.C. 77a et seq.), if the following conditions are met:

(1) Both the issuing entity for the asset-backed securities and the entity that issued the pool asset were established under the direction of the same sponsor and depositor;

(2) The pool asset was created solely to satisfy legal requirements or otherwise facilitate the structuring of the asset-backed securities transaction;

(3) The pool asset is not part of a scheme to avoid the registration or reporting requirements of the Act;

(4) The pool asset is held by the issuing entity and is a part of the asset pool for the asset-backed securities; and
(5) The offering of the asset-backed securities and the offering of the pool asset were both registered under the Securities Act (15 U.S.C. 77a et seq.).

(b) Paragraph (a) of this section does not affect any reporting obligation applicable with respect to the asset-backed securities or any other reporting obligation that may be applicable with respect to the pool asset or any other securities by the issuer of that pool asset pursuant to section 12 or 15(d) of the Act (15 U.S.C. 78l or 78o(d)).

(c) This section does not affect any obligation to provide information regarding the pool asset or the asset pool underlying the pool asset in a filing with respect to the asset-backed securities. See Item 1100(d) of Regulation AB (§ 229.1100(d) of this chapter).

(d) Terms used in this section have the same meaning as in Item 1101 of Regulation AB (§ 229.1101 of this chapter).

Rule 15g-1. Exemptions For Certain Transactions.

The following transactions shall be exempt from 17 CFR 240.15g-2, 17 CFR 240.15g-3, 17 CFR 240.15g-4, 17 CFR 240.15g-5, and 17 CFR 240.15g-6:

(a) Transactions by a broker or dealer:

(1) Whose commissions, commission equivalents, mark-ups, and mark-downs from transactions in penny stocks during each of the immediately preceding three months and during eleven or more of the preceding twelve months, or during the immediately preceding six months, did not exceed five percent of its total commissions, commission equivalents, mark-ups, and mark-downs from transactions in securities during those months; and

(2) Who has not been a market maker in the penny stock that is the subject of the transaction in the immediately preceding twelve months.

Note. Prior to April 28, 1993, commissions, commission equivalents, mark-ups, and mark-downs from transactions in designated securities, as defined in 17 CFR 240.15c2-6(d)(2) as of April 15, 1992, may be considered to be commissions, commission equivalents, mark-ups, and mark-downs from transactions in penny stocks for purposes of paragraph (a)(1) of this section.

(b) Transactions in which the customer is an institutional accredited investor, as defined in 17 CFR 230.501(a)(1), (2), (3), (7), or (8).

(c) Transactions that meet the requirements of Regulation D (17 CFR 230.500 et seq.), or transactions with an issuer not involving any public offering pursuant to Section 4(2) of the Securities Act of 1933.

(d) Transactions in which the customer is the issuer, or a director, officer, general partner, or direct or indirect beneficial owner of more than five percent of any class of equity security of the issuer, of the penny stock that is the subject of the transaction.

(e) Transactions that are not recommended by the broker or dealer.

(f) Any other transaction or class of transactions or persons or class of persons that, upon prior written request or upon its own motion, the Commission conditionally or unconditionally exempts by order as consistent with the public interest and the protection of investors.


(a) It shall be unlawful for a broker or dealer to effect a transaction in any penny stock for or with the account of a customer unless, prior to effecting such transaction, the broker
or dealer has furnished to the customer a document containing the information set forth in Schedule 15G, § 240.15g-100, and has obtained from the customer a signed and dated acknowledgement of receipt of the document.

(b) Regardless of the form of acknowledgement used to satisfy the requirements of paragraph (a) of this section, it shall be unlawful for a broker or dealer to effect a transaction in any penny stock for or with the account of a customer less than two business days after the broker or dealer sends such document.

(c) The broker or dealer shall preserve, as part of its records, a copy of the written acknowledgment required by paragraph (a) of this section for the period specified in 17 CFR 240.17a-4(b) of this chapter.

(d) Upon request of the customer, the broker or dealer shall furnish the customer with a copy of the information set forth on the Commission’s Web site at http://www.sec.gov/investor/pubs/microcapstock.htm.

Rule 15g-3. Broker or Dealer Disclosure of Quotations and Other Information Relating to the Penny Stock Market.

(a) Requirement. It shall be unlawful for a broker or dealer to effect a transaction in any penny stock with or for the account of a customer unless such broker or dealer discloses to such customer, within the time periods and in the manner required by paragraph (b) of this section, the following information:

(1) The inside bid quotation and the inside offer quotation for the penny stock.

(2) If paragraph (a)(1) of this section does not apply because of the absence of an inside bid quotation and an inside offer quotation:

(i) With respect to a transaction effected with or for a customer on a principal basis (other than as provided in paragraph (a)(2)(ii) of this section):

(A) The dealer shall disclose its offer price for the security:

(1) If during the previous five days the dealer has effected no fewer than three bona fide sales to other dealers consistently at its offer price for the security current at the time of those sales, and

(B) The dealer shall disclose its bid price for the security:

(1) If during the previous five days the dealer has effected no fewer than three bona fide purchases from other dealers consistently at its bid price for the security current at the time of those purchases, and

(2) If the dealer reasonably believes in good faith at the time of the transaction with the customer that its offer price accurately reflects the price at which it is willing to sell one or more round lots to another dealer. For purposes of paragraph (a)(2)(i)(A) of this section, “consistently” shall constitute, at a minimum, seventy-five percent of the dealer’s bona fide inter-dealer sales during the previous five-day period, and, if the dealer has effected only three bona fide inter-dealer sales during such period, all three of such sales.

(B) The dealer shall disclose its bid price for the security:

(1) If during the previous five days the dealer has effected no fewer than three bona fide purchases from other dealers consistently at its bid price for the security current at the time of those purchases, and

(2) If the dealer reasonably believes in good faith at the time of the transaction with the customer that its bid price accurately reflects the price at which it is willing to buy one or more round lots from another dealer. For purposes of paragraph (a)(2)(i)(B) of this section, “consistently,” shall constitute, at a minimum, seventy-five percent of the dealer’s bona fide inter-dealer purchases during the previous five-day period, and, if the dealer has effected only three bona fide inter-dealer purchases during such period, all three of such purchases.
(C) If the dealer’s bid or offer prices to the customer do not satisfy the criteria of paragraphs (a)(2)(i)(A) or (a)(2)(i)(B) of this section, the dealer shall disclose to the customer:

1. That it has not effected inter-dealer purchases or sales of the penny stock consistently at its bid or offer price, and

2. The price at which it last purchased the penny stock from, or sold the penny stock to, respectively, another dealer in a bona fide transaction.

(ii) With respect to transactions effected by a broker or dealer with or for the account of the customer:

(A) On an agency basis, or

(B) On a basis other than as a market maker in the security, where, after having received an order from the customer to purchase a penny stock, the dealer effects the purchase from another person to offset a contemporaneous sale of the penny stock to such customer, or, after having received an order from the customer to sell the penny stock, the dealer effects the sale to another person to offset a contemporaneous purchase from such customer, the broker or dealer shall disclose the best independent inter-dealer bid and offer prices for the penny stock that the broker or dealer obtains through reasonable diligence. A broker-dealer shall be deemed to have exercised reasonable diligence if it obtains quotations from three market makers in the security (or all known market makers if there are fewer than three).

3. With respect to bid or offer prices and transaction prices disclosed pursuant to paragraph (a) of this section, the broker or dealer shall disclose the number of shares to which the bid and offer prices apply.

(b) Timing. (1) The information described in paragraph (a) of this section:

(i) Shall be provided to the customer orally or in writing prior to effecting any transaction with or for the customer for the purchase or sale of such penny stock; and

(ii) Shall be given or sent to the customer in writing, at or prior to the time that any written confirmation of the transaction is given or sent to the customer pursuant to 17 CFR 240.10b-10 of this chapter.

(2) A broker or dealer, at the time of making the disclosure pursuant to paragraph (b)(1)(i) of this section, shall make and preserve as part of its records, a record of such disclosure for the period specified in 17 CFR 240.17a-4(b).

(c) Definitions. For purposes of this section:

(1) The term bid price shall mean the price most recently communicated by the dealer to another broker or dealer at which the dealer is willing to purchase one or more round lots of the penny stock, and shall not include indications of interest.

(2) The term offer price shall mean the price most recently communicated by the dealer to another broker or dealer at which the dealer is willing to sell one or more round lots of the penny stock, and shall not include indications of interest.

(3) The term inside bid quotation for a security shall mean the highest bid quotation for the security displayed by a market maker in the security on a Qualifying Electronic Quotation System, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotations for the security at specified prices.

(4) The term inside offer quotation for a security shall mean the lowest offer quotation for the security displayed by a market maker in the security on a Qualifying
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Electronic Quotation System, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotations for the security at specified prices.

(5) The term *Qualifying Electronic Quotation System* shall mean an automated inter-dealer quotation system that has the characteristics set forth in Section 17B(b)(2) of the Act, or such other automated inter-dealer quotation system designated by the Commission for purposes of this section.

Rule 15g-4. Disclosure of Compensation to Brokers or Dealers.

*Preliminary Note.* Brokers and dealers may wish to refer to Securities Exchange Act Release No. 30608 (April 20, 1992) for a discussion of the procedures for computing compensation in active and competitive markets, inactive and competitive markets, and dominated and controlled markets.

(a) *Disclosure Requirement.* It shall be unlawful for any broker or dealer to effect a transaction in any penny stock for or with the account of a customer unless such broker or dealer discloses to such customer, within the time periods and in the manner required by paragraph (b) of this section, the aggregate amount of any compensation received by such broker or dealer in connection with such transaction.

(b) *Timing.* (1) The information described in paragraph (a) of this section:

(i) Shall be provided to the customer orally or in writing prior to effecting any transaction with or for the customer for the purchase or sale of such penny stock; and

(ii) Shall be given or sent to the customer in writing, at or prior to the time that any written confirmation of the transaction is given or sent to the customer pursuant to 17 CFR 240.10b-10.

(2) A broker or dealer, at the time of making the disclosure pursuant to paragraph (b)(1)(i) of this section, shall make and preserve as part of its records, a record of such disclosure for the period specified in 17 CFR 240.17a-4(b).

(c) *Definition of Compensation.* For purposes of this section, *compensation* means, with respect to a transaction in a penny stock:

(1) If a broker is acting as agent for a customer, the amount of any remuneration received or to be received by it from such customer in connection with such transaction;

(2) If, after having received a buy order from a customer, a dealer other than a market maker purchased the penny stock as principal from another person to offset a contemporaneous sale to such customer or, after having received a sell order from a customer, sold the penny stock as principal to another person to offset a contemporaneous purchase from such customer, the difference between the price to the customer and such contemporaneous purchase or sale price; or

(3) If the dealer otherwise is acting as principal for its own account, the difference between the price to the customer and the prevailing market price.

(d) *“Active and Competitive” Market.* For purposes of this section only, a market may be deemed to be “active and competitive” in determining the prevailing market price with respect to a transaction by a market maker in a penny stock if the aggregate number of transactions effected by such market maker in the penny stock in the five business days preceding such transaction is less than twenty percent of the aggregate number of all transactions in the penny stock reported on a Qualifying Electronic Quotation System (as defined in 17 CFR 240.15g-3(c)(5)) during such five-day period.
No presumption shall arise that a market is not “active and competitive” solely by reason of a market maker not meeting the conditions specified in this paragraph.


(a) General. It shall be unlawful for a broker or dealer to effect a transaction in any penny stock for or with the account of a customer unless the broker or dealer discloses to such customer, within the time periods and in the manner required by paragraph (b) of this section, the aggregate amount of cash compensation that any associated person of the broker or dealer who is a natural person and has communicated with the customer concerning the transaction at or prior to receipt of the customer’s transaction order, other than any person whose function is solely clerical or ministerial, has received or will receive from any source in connection with the transaction and that is determined at or prior to the time of the transaction, including separate disclosure, if applicable, of the source and amount of such compensation that is not paid by the broker or dealer.

(b) Timing. (1) The information described in paragraph (a) of this section:

(i) Shall be provided to the customer orally or in writing prior to effecting any transaction with or for the customer for the purchase or sale of such penny stock; and

(ii) Shall be given or sent to the customer in writing, at or prior to the time that any written confirmation of the transaction is given or sent to the customer pursuant to 17 CFR 240.10b-10.

(2) A broker or dealer, at the time of making the disclosure pursuant to paragraph (b)(1)(i) of this section, shall make and preserve as part of its records, a record of such disclosure for the period specified in 17 CFR 240.17a-4(b).

(c) Contingent Compensation Arrangements. Where a portion or all of the cash or other compensation that the associated person may receive in connection with the transaction may be determined and paid following the transaction based on aggregate sales volume levels or other contingencies, the written disclosure required by paragraph (b)(1)(ii) of this section shall state that fact and describe the basis upon which such compensation is determined.

Rule 15g-6. Account Statements For Penny Stock Customers.

(a) Requirements. It shall be unlawful for any broker or dealer that has effected the sale to any customer, other than in a transaction that is exempt pursuant to 17 CFR 240.15g-1, of any security that is a penny stock on the last trading day of any calendar month, or any successor of such broker or dealer, to fail to give or send to such customer a written statement containing the information described in paragraphs (c) and (d) of this section with respect to each such month in which such security is held for the customer’s account with the broker or dealer, within ten days following the end of such month.

(b) Exemptions. A broker or dealer shall be exempted from the requirement of paragraph (a) of this section under either of the following circumstances:

(1) If the broker or dealer does not effect any transactions in penny stocks for or with the account of the customer during a period of six consecutive calendar months, then the broker or dealer shall not be required to provide monthly statements for each quarterly period that is immediately subsequent to such six-month period and in which the broker or dealer does not effect any transaction in penny stocks for or with the account of the customer, provided that the broker or dealer gives or sends to the customer written statements containing the information described in paragraphs
(d) and (e) of this section on a quarterly basis, within ten days following the end of each such quarterly period.

(2) If, on all but five or fewer trading days of any quarterly period, a security has a price of five dollars or more, the broker or dealer shall not be required to provide a monthly statement covering the security for subsequent quarterly periods, until the end of any such subsequent quarterly period on the last trading day of which the price of the security is less than five dollars.

(c) **Price Determinations.** For purposes of paragraphs (a) and (b) of this section, the price of a security on any trading day shall be determined at the close of business in accordance with the provisions of 17 CFR 240.3a51-1(d)(1).

(d) **Market and Price Information.** The statement required by paragraph (a) of this section shall contain at least the following information with respect to each penny stock covered by paragraph (a) of this section, as of the last trading day of the period to which the statement relates:

(1) The identity and number of shares or units of each such security held for the customer’s account; and

(2) The estimated market value of the security, to the extent that such estimated market value can be determined in accordance with the following provisions:

(i) The highest inside bid quotation for the security on the last trading day of the period to which the statement relates, multiplied by the number of shares or units of the security held for the customer’s account; or

(ii) If paragraph (d)(2)(i) of this section is not applicable because of the absence of an inside bid quotation, and if the broker or dealer furnishing the statement has effected at least ten separate Qualifying Purchases in the security during the last five trading days of the period to which the statement relates, the weighted average price per share paid by the broker or dealer in all Qualifying Purchases effected during such five-day period, multiplied by the number of shares or units of the security held for the customer’s account; or

(iii) If neither of paragraphs (d)(2)(i) nor (d)(2)(ii) of this section is applicable, a statement that there is “no estimated market value” with respect to the security.

(e) **Legend.** In addition to the information required by paragraph (d) of this section, the written statement required by paragraph (a) of this section shall include a conspicuous legend that is identified with the penny stocks described in the statement and that contains the following language:

“If this statement contains an estimated value, you should be aware that this value may be based on a limited number of trades or quotes. Therefore, you may not be able to sell these securities at a price equal or near to the value shown. However, the broker-dealer furnishing this statement may not refuse to accept your order to sell these securities. Also, the amount you receive from a sale generally will be reduced by the amount of any commissions or similar charges. If an estimated value is not shown for a security, a value could not be determined because of a lack of information.”

(f) **Preservation of Records.** Any broker or dealer subject to this section shall preserve, as part of its records, copies of the written statements required by paragraph (a) of this section and keep such records for the periods specified in 17 CFR 240.17a-4(b).

(g) **Definitions.** For purposes of this section:

(1) The term **quarterly period** shall mean any period of three consecutive full calendar months.
(2) The *inside bid quotation* for a security shall mean the highest bid quotation for the security displayed by a market maker in the security on a Qualifying Electronic Quotation System, at any time in which at least two market makers are contemporaneously displaying on such system bid and offer quotations for the security at specified prices.

(3) The term *Qualifying Electronic Quotation System* shall mean an automated inter-dealer quotation system that has the characteristics set forth in Section 17B(b)(2) of the Act, or such other automated inter-dealer quotation system designated by the Commission for purposes of this section.

(4) The term *Qualifying Purchases* shall mean bona fide purchases by a broker or dealer of a penny stock for its own account, each of which involves at least 100 shares, but excluding any block purchase involving more than one percent of the outstanding shares or units of the security.

**Rule 15g-8. Sales of Escrowed Securities of Blank Check Companies.**

As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any person to sell or offer to sell any security that is deposited and held in an escrow or trust account pursuant to Rule 419 under the Securities Act of 1933 (17 CFR 230.419), or any interest in or related to such security, other than pursuant to a qualified domestic relations order as defined by the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 et seq.), or Title I of the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.), or the rules thereunder.

**Rule 15g-9. Sales Practice Requirements For Certain Low-Priced Securities.**

(a) As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for a broker or dealer to sell a penny stock to, or to effect the purchase of a penny stock by, any person unless:

(1) The transaction is exempt under paragraph (c) of this section; or

(2) Prior to the transaction:

(i) The broker or dealer has approved the person’s account for transactions in penny stocks in accordance with the procedures set forth in paragraph (b) of this section; and

(ii)(A) The broker or dealer has received from the person an agreement to the transaction setting forth the identity and quantity of the penny stock to be purchased; and

(B) Regardless of the form of agreement used to satisfy the requirements of paragraph (a)(2)(ii)(A) of this section, it shall be unlawful for such broker or dealer to sell a penny stock to, or to effect the purchase of a penny stock by, for or with the account of a customer less than two business days after the broker or dealer sends such agreement.

(b) In order to approve a person’s account for transactions in penny stocks, the broker or dealer must:

(1) Obtain from the person information concerning the person’s financial situation, investment experience, and investment objectives;

(2) Reasonably determine, based on the information required by paragraph (b)(1) of this section and any other information known by the broker-dealer, that transactions in penny stocks are suitable for the person, and that the person (or the person’s independent adviser in these transactions) has sufficient knowledge and experience in financial matters that the person (or the person’s independent adviser in these transactions) reasonably may be expected to be capable of evaluating the risks of transactions in penny stocks;
(3) Deliver to the person a written statement:

(i) Setting forth the basis on which the broker or dealer made the determination required by paragraph (b)(2) of this section;

(ii) Stating in a highlighted format that it is unlawful for the broker or dealer to effect a transaction in a penny stock subject to the provisions of paragraph (a)(2) of this section unless the broker or dealer has received, prior to the transaction, a written agreement to the transaction from the person; and

(iii) Stating in a highlighted format immediately preceding the customer signature line that:

(A) The broker or dealer is required by this section to provide the person with the written statement; and

(B) The person should not sign and return the written statement to the broker or dealer if it does not accurately reflect the person’s financial situation, investment experience, and investment objectives; and

(4)(i) Obtain from the person a signed and dated copy of the statement required by paragraph (b)(3) of this section; and

(ii) Regardless of the form of statement used to satisfy the requirements of paragraph (b)(4)(i) of this section, it shall be unlawful for such broker or dealer to sell a penny stock to, or to effect the purchase of a penny stock by, for or with the account of a customer less than two business days after the broker or dealer sends such statement.

(c) For purposes of this section, the following transactions shall be exempt:

(1) Transactions that are exempt under 17 CFR 240.15g-1(a), (b), (d), (e), and (f).

(2) Transactions that meet the requirements of 17 CFR 230.506 (including, where applicable, the requirements of 17 CFR 230.501 through 230.503, and 17 CFR 230.507 through 230.508), or transactions with an issuer not involving any public offering pursuant to Section 4(a)(2) of the Securities Act of 1933.

(3) Transactions in which the purchaser is an established customer of the broker or dealer.

(d) For purposes of this section:

(1) The term *penny stock* shall have the same meaning as in 17 CFR 240.3a51-1.

(2) The term *established customer* shall mean any person for whom the broker or dealer, or a clearing broker on behalf of such broker or dealer, carries an account, and who in such account:

(i) Has effected a securities transaction, or made a deposit of funds or securities, more than one year previously; or

(ii) Has made three purchases of penny stocks that occurred on separate days and involved different issuers.
Rule 15g-100. Schedule 15G—Information to Be Included in the Document Distributed Pursuant to 17 CFR 240.15g-2.

SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

SCHEDULE 15G

UNDER THE SECURITIES EXCHANGE ACT OF 1934

Instructions to Schedule 15G.

A. Schedule 15G (Schedule) may be provided to customers in its entirety either on paper or electronically. It may also be provided to customers electronically through a link to the SEC’s Web site.

1. If the Schedule is sent in paper form, the format and typeface of the Schedule must be reproduced exactly as presented. For example, words that are capitalized must remain capitalized, and words that are underlined or bold must remain underlined or bold. The typeface must be clear and easy to read. The Schedule may be reproduced either by photocopy or by printing.

2. If the Schedule is sent electronically, the e-mail containing the Schedule must have as a subject line “Important Information on Penny Stocks.” The Schedule reproduced in the text of the e-mail must be clear, easy-to-read type presented in a manner reasonably calculated to draw the customer’s attention to the language in the document, especially words that are capitalized, underlined or in bold.

3. If the Schedule is sent electronically using a hyperlink to the SEC Web site, the e-mail containing the hyperlink must have as a subject line: “Important Information on Penny Stocks.” Immediately before the hyperlink, the text of the e-mail must reproduce the following statement in clear, easy-to-read type presented in a manner reasonably calculated to draw the customer’s attention to the words: “We are required by the U.S. Securities and Exchange Commission to give you the following disclosure statement: http://www.sec.gov/investor/schedule15g.htm. It explains some of the risks of investing in penny stocks. Please read it carefully before you agree to purchase or sell a penny stock.”

B. Regardless of how the Schedule is provided to the customer, the communication must also provide the name, address, telephone number and e-mail address of the broker. E-mail messages may also include any privacy or confidentiality information that the broker routinely includes in e-mail messages sent to customers. No other information may be included in these communications, other than instructions on how to provide a signed and dated acknowledgement of receipt of the Schedule.

C. The document entitled “Important Information on Penny Stocks” must be distributed as Schedule 15G and must be no more than two pages in length if provided in paper form.

D. The disclosures made through the Schedule are in addition to any other disclosures that are required under the federal securities laws.

E. Recipients of the document must not be charged any fee for the document.

F. The content of the Schedule is as follows:

[next page]
Important Information on Penny Stocks

The U.S. Securities and Exchange Commission (SEC) requires your broker to give this statement to you, and to obtain your signature to show that you have received it, before your first trade in a penny stock. This statement contains important information—and you should read it carefully before you sign it, and before you decide to purchase or sell a penny stock.

In addition to obtaining your signature, the SEC requires your broker to wait at least two business days after sending you this statement before executing your first trade to give you time to carefully consider your trade.

Penny Stocks Can Be Very Risky.

Penny stocks are low-priced shares of small companies. Penny stocks may trade infrequently—which means that it may be difficult to sell penny stock shares once you have them. Because it may also be difficult to find quotations for penny stocks, they may be impossible to accurately price. Investors in penny stock should be prepared for the possibility that they may lose their whole investment.

While penny stocks generally trade over-the-counter, they may also trade on U.S. securities exchanges, facilities of U.S. exchanges, or foreign exchanges. You should learn about the market in which the penny stock trades to determine how much demand there is for this stock and how difficult it will be to sell. Be especially careful if your broker is offering to sell you newly issued penny stock that has no established trading market.

The securities you are considering have not been approved or disapproved by the SEC. Moreover, the SEC has not passed upon the fairness or the merits of this transaction nor upon the accuracy or adequacy of the information contained in any prospectus or any other information provided by an issuer or a broker or dealer.

Information You Should Get.

In addition to this statement, your broker is required to give you a statement of your financial situation and investment goals explaining why his or her firm has determined that penny stocks are a suitable investment for you. In addition, your broker is required to obtain your agreement to the proposed penny stock transaction.

Before you buy penny stock, federal law requires your salesperson to tell you the "offer" and the "bid" on the stock, and the "compensation" the salesperson and the firm receive for the trade. The firm also must send a confirmation of these prices to you after the trade. You will need this price information to determine what profit or loss, if any, you will have when you sell your stock.

The offer price is the wholesale price at which the dealer is willing to sell stock to other dealers. The bid price is the wholesale price at which the dealer is willing to buy the stock from other dealers. In its trade with you, the dealer may add a retail charge to these wholesale prices as compensation (called a "markup" or "markdown").

The difference between the bid and the offer price is the dealer’s "spread." A spread that is large compared with the purchase price can make a resale of a stock very costly. To be profitable when you sell, the bid price of your stock must rise above the amount of this spread and the compensation charged by both your selling and purchasing dealers. Remember that if the dealer has no bid price, you may not be able to sell the stock after you buy it, and may lose your whole investment.

After you buy penny stock, your brokerage firm must send you a monthly account statement that gives an estimate of the value of each penny stock in your account, if there is enough information to make an estimate. If the firm has not bought or sold any
penny stocks for your account for six months, it can provide these statements every three months.

Additional information about low-priced securities—including penny stocks—is available on the SEC’s Web site at http://www.sec.gov/investor/pubs/microcapstock.htm. In addition, your broker will send you a copy of this information upon request. The SEC encourages you to learn all you can before making this investment.

**Brokers’ Duties and Customer’s Rights and Remedies.**

Remember that your salesperson is not an impartial advisor—he or she is being paid to sell you stock. Do not rely only on the salesperson, but seek outside advice before you buy any stock. You can get the disciplinary history of a salesperson or firm from NASD at 1-800-289-9999 or contact NASD via the Internet at www.nasd.com. You can also get additional information from your state securities official. The North American Securities Administrators Association, Inc. can give you contact information for your state. You can reach NASAA at (202) 737-0900 or via the Internet at www.nasaa.org.

If you have problems with a salesperson, contact the firm’s compliance officer. You can also contact the securities regulators listed above. Finally, if you are a victim of fraud, you may have rights and remedies under state and federal law. In addition to the regulators listed above, you also may contact the SEC with complaints at (800) SEC-0330 or via the Internet at help@sec.gov.

**Rule 15l-1. Regulation Best Interest.**

(a) **Best Interest Obligation.**

(1) A broker, dealer, or a natural person who is an associated person of a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, shall act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or natural person who is an associated person of a broker or dealer making the recommendation ahead of the interest of the retail customer.

(2) The best interest obligation in paragraph (a)(1) shall be satisfied if:

(i) **Disclosure Obligation.** The broker, dealer, or natural person who is an associated person of a broker or dealer, prior to or at the time of the recommendation, provides the retail customer, in writing, full and fair disclosure of:

(A) All material facts relating to the scope and terms of the relationship with the retail customer, including:

(1) That the broker, dealer, or such natural person is acting as a broker, dealer, or an associated person of a broker or dealer with respect to the recommendation;

(2) The material fees and costs that apply to the retail customer’s transactions, holdings, and accounts; and

*Effective September 10, 2019, Rule 15l-1 is added as part of amendments establishing a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when they make a recommendation to a retail customer of any securities transaction or investment strategy involving securities (“Regulation Best Interest”). See SEC Release No. 34-86031; June 5, 2019. Compliance Date: June 30, 2020."
(3) The type and scope of services provided to the retail customer, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer; and

(B) All material facts relating to conflicts of interest that are associated with the recommendation.

(ii) Care Obligation. The broker, dealer, or natural person who is an associated person of a broker or dealer, in making the recommendation, exercises reasonable diligence, care, and skill to:

(A) Understand the potential risks, rewards, and costs associated with the recommendation, and have a reasonable basis to believe that the recommendation could be in the best interest of at least some retail customers;

(B) Have a reasonable basis to believe that the recommendation is in the best interest of a particular retail customer based on that retail customer’s investment profile and the potential risks, rewards, and costs associated with the recommendation and does not place the financial or other interest of the broker, dealer, or such natural person ahead of the interest of the retail customer;

(C) Have a reasonable basis to believe that a series of recommended transactions, even if in the retail customer’s best interest when viewed in isolation, is not excessive and is in the retail customer’s best interest when taken together in light of the retail customer’s investment profile and does not place the financial or other interest of the broker, dealer, or such natural person making the series of recommendations ahead of the interest of the retail customer.

(iii) Conflict of Interest Obligation. The broker or dealer establishes, maintains, and enforces written policies and procedures reasonably designed to:

(A) Identify and at a minimum disclose, in accordance with paragraph (a)(2)(i) of this section, or eliminate, all conflicts of interest associated with such recommendations;

(B) Identify and mitigate any conflicts of interest associated with such recommendations that create an incentive for a natural person who is an associated person of a broker or dealer to place the interest of the broker, dealer, or such natural person ahead of the interest of the retail customer;

(C)(1) Identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail customer and any conflicts of interest associated with such limitations, in accordance with subparagraph (a)(2)(i), and

(2) Prevent such limitations and associated conflicts of interest from causing the broker, dealer, or a natural person who is an associated person of the broker or dealer to make recommendations that place the interest of the broker, dealer, or such natural person ahead of the interest of the retail customer; and

(D) Identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific securities or specific types of securities within a limited period of time.

(iv) Compliance Obligation. In addition to the policies and procedures required by paragraph (a)(2)(iii) of this section, the broker or dealer establishes, maintains, and enforces written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest.
(b) **Definitions.** Unless otherwise provided, all terms used in this rule shall have the same meaning as in the Securities Exchange Act of 1934. In addition, the following definitions shall apply for purposes of this section:

1. **Retail Customer** means a natural person, or the legal representative of such natural person, who:
   
   (i) Receives a recommendation of any securities transaction or investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and
   
   (ii) Uses the recommendation primarily for personal, family, or household purposes.

2. **Retail Customer Investment Profile** includes, but is not limited to, the retail customer’s age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the retail customer may disclose to the broker, dealer, or a natural person who is an associated person of a broker or dealer in connection with a recommendation.

3. **Conflict of Interest** means an interest that might incline a broker, dealer, or a natural person who is an associated person of a broker or dealer—consciously or unconsciously—to make a recommendation that is not disinterested.

**NATIONAL AND AFFILIATED SECURITIES ASSOCIATIONS**

**Rule 15Aa-1. Registration of a National or an Affiliated Securities Association.**

Any application for registration of an association as a national, or as an affiliated, securities association shall be made in triplicate on Form X-15AA-1 accompanied by three copies of the exhibits prescribed by the Commission to be filed in connection therewith.

**Rule 15Aj-1. Amendments and Supplements to Registration Statements of Securities Associations.**

Every association applying for registration or registered as a national securities association or as an affiliated securities association shall keep its registration statement up to date in the manner prescribed below:

(a) **Amendments.** Promptly after the discovery of any inaccuracy in the registration statement or in any amendment or supplement thereto the association shall file with the Commission an amendment correcting such inaccuracy.

(b) **Current Supplements.** Promptly after any change which renders no longer accurate any information contained or incorporated in the registration statement or in any amendment or supplement thereto the association shall file with the Commission a current supplement setting forth such change except that:

1. Supplements setting forth changes in the information called for in Exhibit C need not be filed until 10 days after the calendar month in which the changes occur.

2. No current supplements need be filed with respect to changes in the information called for in Exhibit B.

3. If changes in the information called for in Items (1) and (2) of Exhibit C are reported in any record which is published at least once a month by the association and
promptly filed in triplicate with the Commission, no current supplement need be filed with respect thereto.

(c) **Annual Supplements.** (1) Promptly after March 1 of each year, the association shall file with the Commission an annual consolidated supplement as of such date on Form X-15AJ-2 except that:

(i) If the securities association publishes or cooperates in the publication of the information required in Items 6(a) and 6(b) of Form X-15AJ-2 on an annual or more frequent basis, in lieu of filing such an item the securities association may:

(A) Identify the publication in which such information is available, the name, address, and telephone number of the person from whom such publication may be obtained, and the price thereof; and

(B) Certify to the accuracy of such information as of its date.

(ii) Promptly after March 1, 1995, and every three years thereafter each association shall file complete Exhibit A to Form X-15AJ-2. The information contained in this exhibit shall be up to date as of the latest practicable date within three months of the date on which these exhibits are filed. If the association publishes or cooperates in the publication of the information required in this exhibit on an annual or more frequent basis, in lieu of filing such exhibit the association may:

(A) Identify the publication in which such information is available, the name, address, and telephone number of the person from whom such publication may be obtained, and the price thereof; and

(B) Certify to the accuracy of such information as of its date. If a securities association keeps the information required in this exhibit up to date and makes it available to the Commission and the public upon request, in lieu of filing such an exhibit a securities association may certify that the information is kept up to date and is available to the Commission and the public upon request.

(2) Promptly after the close of each fiscal year of the association, it shall file with the Commission a supplement setting forth its balance sheet as of the close of such year and its income and expense statement for such year.

(d) Each amendment or supplement shall be filed in triplicate, at least one of which must be signed and attested, in the same manner as required in the case of the original registration statement, and must conform to the requirements of Form X-15AJ-1, except that the annual consolidated supplement shall be filed on Form X-15AJ-2. All amendments and supplements shall be dated and numbered in order of filing. One amendment or supplement may include any number of changes. In addition to the formal filing of amendments and supplements above described, each association shall send to the Commission three copies of any notices, reports, circulars, loose-leaf insertions, riders, new additions, lists, or other records of changes covered by amendments or supplements when, as, and if such records are made available to members of the association.

**Rule 15Ba1-1. Definitions.**

As used in the rules and regulations prescribed by the Commission pursuant to section 15B of the Act (15 U.S.C. 78o-4) in §§ 240.15Ba1-1 through 240.15Ba1-8 and 240.15Bc4-1:

(a) **Guaranteed investment contract** has the same meaning as in section 15B(e)(2) of the Act (15 U.S.C. 78o-4(e)(2)); provided, however, that the contract relates to investments of proceeds of municipal securities or municipal escrow investments.
(b) "Investment strategies" has the same meaning as in section 15B(e)(3) of the Act (15 U.S.C. 78o-4(e)(3)), and includes plans or programs for the investment of proceeds of municipal securities that are not municipal derivatives or guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments.

(c) "Managing agent" means any person, including a trustee, who directs or manages, or who participates in directing or managing, the affairs of any unincorporated organization or association other than a partnership.

(d)(1) Municipal Advisor.

(i) In General. Except as otherwise provided in paragraphs (d)(2) and (d)(3) of this section, the term municipal advisor has the same meaning as in section 15B(e)(4) of the Act (15 U.S.C. 78o-4(e)(4)). Under section 15B(e)(4)(A) of the Act (15 U.S.C. 78o-4(e)(4)(A)), the term municipal advisor means a person (who is not a municipal entity or an employee of a municipal entity) that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues; or undertakes a solicitation of a municipal entity or an obligated person. Under section 15B(e)(4)(C) of the Act (15 U.S.C. 78o-4(e)(4)(C)) and paragraph (d)(2) of this section, a municipal advisor does not include a person that engages in specified excluded activities.

(ii) Advice Standard. For purposes of the municipal advisor definition under paragraph (d)(1)(i) of this section, advice excludes, among other things, the provision of general information that does not involve a recommendation regarding municipal financial products or the issuance of municipal securities (including with respect to the structure, timing, terms and other similar matters concerning such financial products or issues).

(iii) Certain Types of Municipal Advisors. Under section 15B(e)(4)(B) of the Act (15 U.S.C. 78o-4(e)(4)(B)), municipal advisors include, without limitation, financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors, to the extent that such persons otherwise meet the requirements of the municipal advisor definition in this paragraph (d)(1).

(2) Exclusions From Municipal Advisor Definition. Pursuant to section 15B(e)(4)(C) of the Act (15 U.S.C. 78o-4(e)(4)(C)), the term municipal advisor excludes the following persons with respect to the specified excluded activities:

(i) Serving as an Underwriter. A broker, dealer, or municipal securities dealer serving as an underwriter of a particular issuance of municipal securities to the extent that the broker, dealer, or municipal securities dealer engages in activities that are within the scope of an underwriting of such issuance of municipal securities.

(ii) Registered Investment Advisers—In General. Any investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or any person associated with such registered investment adviser to the extent that such registered investment adviser or such person is providing investment advice in such capacity. Solely for purposes of this paragraph (d)(2)(ii), investment advice does not include advice concerning whether and how to issue municipal securities, advice concerning the structure, timing, and terms of an issuance of municipal securities and other similar matters, advice concerning municipal derivatives, or a solicitation of a municipal entity or obligated person.

(iii) Registered Commodity Trading Advisors. Any commodity trading advisor registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or person associated with a registered commodity trading advisor, to the extent that such registered commodity trading advisor or such person is providing advice that is related to swaps (as defined in Section 1a(47) of the Commodity Exchange Act (7 U.S.C. 1a(47)) and

(iv) Attorneys. Any attorney to the extent that the attorney is offering legal advice or providing services that are of a traditional legal nature with respect to the issuance of municipal securities or municipal financial products to a client of such attorney that is a municipal entity, obligated person, or other participant in the transaction. To the extent an attorney represents himself or herself as a financial advisor or financial expert regarding the issuance of municipal securities or municipal financial products, however, the attorney is not excluded with respect to such financial activities under this paragraph (d)(2)(iv).

(v) Engineers. Any engineer to the extent that the engineer is providing engineering advice.

(3) Exemptions From Municipal Advisor Definition. The Commission exempts the following persons from the definition of municipal advisor to the extent they are engaging in the specified activities:

(i) Accountants. Any accountant to the extent that the accountant is providing audit or other attest services, preparing financial statements, or issuing letters for underwriters for, or on behalf of, a municipal entity or obligated person.

(ii) Public Officials and Employees.

(A) Any person serving as a member of a governing body, an advisory board, or a committee of, or acting in a similar official capacity with respect to, or as an official of, a municipal entity or obligated person to the extent that such person is acting within the scope of such person’s official capacity.

(B) Any employee of a municipal entity or obligated person to the extent that such person is acting within the scope of such person’s employment.

(iii) Banks. Any bank, as defined in section 3(a)(6) of the Act (15 U.S.C. 78c(a)(6)), to the extent the bank provides advice with respect to the following:

(A) Any investments that are held in a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(B) Any extension of credit by a bank to a municipal entity or obligated person, including the issuance of a letter of credit, the making of a direct loan, or the purchase of a municipal security by the bank for its own account;

(C) Any funds held in a sweep account that meets the requirements of section 3(a)(4)(B)(v) of the Act (15 U.S.C. 78c(a)(4)(B)(v)); or

(D) Any investment made by a bank acting in the capacity of an indenture trustee or similar capacity.

(iv) Responses to Requests For Proposals or Qualifications. Any person providing a response in writing or orally to a request for proposals or qualifications from a municipal entity or obligated person for services in connection with a municipal financial product or the issuance of municipal securities; provided, however, that such person does not receive separate direct or indirect compensation for advice provided as part of such response.

(v) Swap Dealers.

(A) A swap dealer (as defined in Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) and the rules and regulations thereunder) registered under the Commodity Exchange Act or associated person of the swap dealer recommending a
municipal derivative or a trading strategy that involves a municipal derivative, so long as the registered swap dealer or associated person is not acting as an advisor to the municipal entity or obligated person with respect to the municipal derivative or trading strategy pursuant to Section 4s(h)(4) of the Commodity Exchange Act and the rules and regulations thereunder.

(B) For purposes of determining whether a swap dealer is acting as an advisor in this paragraph (d)(3)(v), the municipal entity or obligated person involved in the transaction will be treated as a special entity under Section 4s(h)(2) of the Commodity Exchange Act and the rules and regulations thereunder (even if such municipal entity or obligated person does not satisfy the definition of special entity under those provisions).

(vi) Participation By an Independent Registered Municipal Advisor. Any person engaging in municipal advisory activities in a circumstance in which a municipal entity or obligated person is otherwise represented by an independent registered municipal advisor with respect to the same aspects of a municipal financial product or an issuance of municipal securities, provided that the following requirements are met:

(A) Independent Registered Municipal Advisor. An independent registered municipal advisor is providing advice with respect to the same aspects of the municipal financial product or issuance of municipal securities. For purposes of paragraph (d)(3)(vi), the term independent registered municipal advisor means a municipal advisor registered pursuant to section 15B of the Act (15 U.S.C. 78o-4) and the rules and regulations thereunder and that is not, and within at least the past two years was not, associated (as defined in section 15B(e)(7) (15 U.S.C. 78o-4(e)(7)) of the Act) with the person seeking to rely on this paragraph (d)(3)(vi).

(B) Required Representation. A person seeking to rely on this paragraph (d)(3)(vi) receives from the municipal entity or obligated person a representation in writing that it is represented by, and will rely on the advice of, an independent registered municipal advisor, provided that the person receiving such representation has a reasonable basis for relying on the representation.

(C) Required Disclosures.

(1) With respect to a municipal entity, such person discloses in writing to the municipal entity that, by obtaining such representation from the municipal entity, such person is not a municipal advisor and is not subject to the fiduciary duty set forth in section 15B(c)(1) of the Act (15 U.S.C. 78o-4(c)(1)) with respect to the municipal financial product or issuance of municipal securities, and provides a copy of such disclosure to the independent registered municipal advisor.

(2) With respect to an obligated person, such person discloses in writing to the obligated person that, by obtaining such representation from the obligated person, such person is not a municipal advisor with respect to the municipal financial product or issuance of municipal securities, and provides a copy of such disclosure to the independent registered municipal advisor.

(3) Each such disclosure must be made at a time and in a manner reasonably designed to allow the municipal entity or obligated person to assess the material incentives and conflicts of interest that such person may have in connection with the municipal advisory activities.

(vii) Persons that Provide Advice on Certain Investment Strategies. A person that provides advice with respect to investment strategies that are not plans or programs for the investment of the proceeds of municipal securities or the recommendation of and brokerage of municipal escrow investments.
(viii) *Certain Solicitations.* A person that undertakes a solicitation of a municipal entity or obligated person for the purpose of obtaining or retaining an engagement by a municipal entity or by an obligated person of a broker, dealer, municipal securities dealer, or municipal advisor for or in connection with municipal financial products that are investment strategies to the extent that those investment strategies are not plans or programs for the investment of the proceeds of municipal securities or the recommendation of and brokerage of municipal escrow investments.

(4) Special Rule For Separately Identifiable Departments or Divisions of Banks For Municipal Advisory Purposes. If a bank engages in municipal advisory activities through a separately identifiable department or division that meets the requirements of this paragraph (d)(4), the determination of whether those municipal advisory activities cause any person to be a municipal advisor may be made separately for such department or division. In such event, that department or division, rather than the bank itself, shall be deemed to be the municipal advisor.

(i) *Separately Identifiable Department or Division.* For purposes of this paragraph (d)(4), a separately identifiable department or division of a bank is that unit of the bank which conducts all of the municipal advisory activities of the bank, provided that the following requirements are met:

(A) *Supervision.* Such unit is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank’s municipal advisory activities, including the supervision of all bank employees engaged in the performance of such activities.

(B) *Separate Records.* All of the records relating to the bank’s municipal advisory activities are separately maintained in, or extractable from, such unit’s own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of applicable provisions of the Act, the rules and regulations thereunder, and the rules of the Municipal Securities Rulemaking Board relating to municipal advisors.

(ii) [Reserved.]

(e) *Municipal advisory activities* means the following activities specified in section 15B(e)(4)(A) of the Act (15 U.S.C. 78o-4(e)(4)(A)) and paragraph (d)(1) of this section that, absent the availability of an exclusion under paragraph (d)(2) of this section or an exemption under paragraph (d)(3) of this section, would cause a person to be a municipal advisor:

(1) Providing advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues; or

(2) Solicitation of a municipal entity or an obligated person.

(f) *Municipal derivatives* means any swap (as defined in Section 1a(47) of the Commodity Exchange Act (7 U.S.C. 1a(47)) and section 3(a)(69) of the Act (15 U.S.C. 78c(a)(69)), including any rules and regulations thereunder) or security-based swap (as defined in section 3(a)(68) of the Act (15 U.S.C. 78c(a)(68)), including any rules and regulations thereunder) to which:

(1) A municipal entity is a counterparty; or

(2) An obligated person, acting in such capacity, is a counterparty.

(g) *Municipal entity* means any State, political subdivision of a State, or municipal corporate instrumentality of a State or of a political subdivision of a State, including:
(1) Any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;

(2) Any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and

(3) Any other issuer of municipal securities.

(h) Municipal Escrow Investments.

(1) In General. Except as otherwise provided in paragraph (h)(2) of this section, municipal escrow investments means proceeds of municipal securities and any other funds of a municipal entity that are deposited in an escrow account to pay the principal of, premium, if any, and interest on one or more issues of municipal securities.

(2) Reasonable Reliance on Representations. In determining whether or not funds to be invested or reinvested constitute municipal escrow investments for purposes of this section, a person may rely on representations in writing made by a knowledgeable official of the municipal entity or obligated person whose funds are to be invested or reinvested regarding the nature of such investments, provided that the person seeking to rely on such representations has a reasonable basis for such reliance.

(i) Municipal financial product has the same meaning as in section 15B(e)(5) of the Act (15 U.S.C. 78o-4(e)(5)).

(j) Non-resident means:

(1) In the case of an individual, one who resides in or has his principal office and place of business in any place not subject to the jurisdiction of the United States;

(2) In the case of a corporation, one incorporated in or having its principal office and place of business in any place not subject to the jurisdiction of the United States; or

(3) In the case of a partnership or other unincorporated organization or association, one having its principal office and place of business in any place not subject to the jurisdiction of the United States.

(k) Obligated person has the same meaning as in section 15B(e)(10) of the Act (15 U.S.C. 78o-4(e)(10)); provided, however, that the term obligated person shall not include:

(1) A person who provides municipal bond insurance, letters of credit, or other liquidity facilities;

(2) A person whose financial information or operating data is not material to a municipal securities offering, without reference to any municipal bond insurance, letter of credit, liquidity facility, or other credit enhancement; or

(3) The federal government.

(l) Principal office and place of business means the executive office of the municipal advisor from which the officers, partners, or managers of the municipal advisor direct, control, and coordinate the activities of the municipal advisor.

(m)(1) Proceeds of Municipal Securities—In General. Except as otherwise provided in paragraphs (m)(2) and (m)(3) of this section, proceeds of municipal securities means monies derived by a municipal entity from the sale of municipal securities, investment income derived from the investment or reinvestment of such monies, and any monies of a municipal entity or obligated person held in funds under legal documents for the municipal securities that are reasonably expected to be used as security or
a source of payment for the payment of the debt service on the municipal securities, including reserves, sinking funds, and pledged funds created for such purpose, and the investment income derived from the investment or reinvestment of monies in such funds. When such monies are spent to carry out the authorized purposes of municipal securities, they cease to be proceeds of municipal securities.

(2) Exception For Section 529 College Savings Plans. Solely for purposes of this paragraph (m), monies derived from a municipal security issued by an education trust established by a State under Section 529(b) of the Internal Revenue Code (26 U.S.C. 529(b)) are not proceeds of municipal securities.

(3) Reasonable Reliance on Representations. In determining whether or not funds to be invested constitute proceeds of municipal securities for purposes of this section, a person may rely on representations in writing made by a knowledgeable official of the municipal entity or obligated person whose funds are to be invested regarding the nature of such funds, provided that the person seeking to rely on such representations has a reasonable basis for such reliance.

(n) Solicitation of a municipal entity or obligated person has the same meaning as in section 15B(e)(9) of the Act (15 U.S.C. 78o-4(e)(9)); provided, however, that a solicitation does not include:

(1) Advertising by a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser; or

(2) Solicitation of an obligated person, if such obligated person is not acting in the capacity of an obligated person or the solicitation of the obligated person is not in connection with the issuance of municipal securities or with respect to municipal financial products.

Rule 15Ba1-2. Registration of Municipal Advisors and Information Regarding Certain Natural Persons.

(a) Form MA. A person applying for registration with the Commission as a municipal advisor pursuant to section 15B of the Act (15 U.S.C. 78o-4) must complete Form MA (17 CFR 249.1300) in accordance with the instructions in the Form and file the Form electronically with the Commission.

(b) Form MA-I.

(1) A person applying for registration or registered with the Commission as a municipal advisor pursuant to section 15B of the Act (15 U.S.C. 78o-4) must complete Form MA-I (17 CFR 249.1310) with respect to each natural person who is a person associated with the municipal advisor (as defined in section 15B(e)(7) of the Act (15 U.S.C. 78o-4(e)(7))) and engaged in municipal advisory activities on its behalf in accordance with the instructions in the Form and file the Form electronically with the Commission.

(2) A natural person applying for registration with the Commission as a municipal advisor pursuant to section 15B of the Act (15 U.S.C. 78o-4), in addition to completing and filing Form MA pursuant to paragraph (a), must complete Form MA-I (17 CFR 249.1310) in accordance with the instructions in the Form and file the Form electronically with the Commission.

(c) When Filed. Each Form MA (17 CFR 249.1300) shall be considered filed with the Commission upon submission of a completed Form MA, together with all additional required documents, including all required filings of Form MA-I (17 CFR 249.1310), to the Commission’s Electronic Data Gathering, Analysis, and Retrieval system.
(d) **Form MA and Form MA-I Are Reports.** Each Form MA (17 CFR 249.1300) and Form MA-I (17 CFR 249.1310) required to be filed under this section shall constitute a report within the meaning of sections 15B(c), 17(a), 18(a), 32(a) of the Act (15 U.S.C. 78o-4(c), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

**Rule 15Ba1-3. Exemption of Certain Natural Persons From Registration Under Section 15B(a)(1)(B) of the Act.**

A natural person municipal advisor shall be exempt from section 15B(a)(1)(B) of the Act (15 U.S.C. 78o-4(a)(1)(B)) if he or she:

(a) Is an associated person of an advisor that is registered with the Commission pursuant to section 15B(a)(2) of the Act (15 U.S.C. 78o-4(a)(2)) and the rules and regulations thereunder; and

(b) Engages in municipal advisory activities solely on behalf of a registered municipal advisor.

**Rule 15Ba1-4. Withdrawal From Municipal Advisor Registration.**

(a) **Form MA-W.** Notice of withdrawal from registration as a municipal advisor shall be filed on Form MA-W (17 CFR 249.1320) in accordance with the instructions to the Form.

(b) **Electronic Filing.** Any notice of withdrawal on Form MA-W (17 CFR 249.1320) must be filed electronically.

(c) **Effective Date.** A notice of withdrawal from registration shall become effective for all matters on the 60th day after the filing thereof, within such longer period of time as to which the municipal advisor consents or which the Commission by order may determine as necessary or appropriate in the public interest or for the protection of investors, or within such shorter period of time as the Commission may determine. If a notice of withdrawal from registration is filed at any time subsequent to the date of the issuance of a Commission order instituting proceedings pursuant to section 15B(c) of the Act (15 U.S.C. 78o-4(c)) to censure, place limitations on the activities, functions or operations of, or suspend or revoke the registration of, the municipal advisor, or if prior to the effective date of the notice of withdrawal pursuant to this paragraph (c), the Commission institutes such a proceeding or a proceeding to impose terms or conditions upon such withdrawal, the notice of withdrawal shall not become effective pursuant to this paragraph (c) except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

(d) **Form MA-W Is a Report.** Each Form MA-W (17 CFR 249.1320) required to be filed under this section shall constitute a report within the meaning of sections 15B(c), 17(a), 18(a), 32(a) of the Act (15 U.S.C. 78o-4(c), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

**Rule 15Ba1-5. Amendments to Form MA and Form MA-I.**

(a) **When Amendment Is Required—Form MA.** A registered municipal advisor shall promptly amend the information contained in its Form MA (17 CFR 249.1300):

(1) At least annually, within 90 days of the end of a municipal advisor’s fiscal year, or of the end of the calendar year for a sole proprietor; and

(2) More frequently, if required by the General Instructions (17 CFR 249.1300), as applicable.
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(b) When Amendment Is Required—Form MA-I. A registered municipal advisor shall promptly amend the information contained in Form MA-I (17 CFR 249.1310) by filing an amended Form MA-I whenever the information contained in the Form MA-I becomes inaccurate for any reason.

(c) Electronic Filing of Amendments. A registered municipal advisor shall file all amendments to Form MA (17 CFR 249.1300) and Form MA-I (17 CFR 249.1310) electronically.

(d) Amendments to Form MA and Form MA-I Are Reports. Each amendment required to be filed under this section shall constitute a report within the meaning of sections 15B(c), 17(a), 18(a), 32(a) of the Act (15 U.S.C. 78o-4(c), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

Rule 15Ba1-6. Consent to Service of Process to Be Filed By Non-Resident Municipal Advisors; Legal Opinion to Be Provided By Non-Resident Municipal Advisors.

(a)(1) Each non-resident municipal advisor applying for registration pursuant to section 15B(a) of the Act (15 U.S.C. 78o-4(a)) shall, at the time of filing of the municipal advisor's application on Form MA (17 CFR 249.1300), file with the Commission a written irrevocable consent and power of attorney on Form MA-NR (17 CFR 249.1330) to appoint an agent in the United States, other than a Commission member, official, or employee, upon whom may be served any process, pleadings, or other papers in any action brought against the non-resident municipal advisor to enforce this chapter.

(2) Each municipal advisor applying for registration pursuant to or registered under section 15B of the Act (15 U.S.C. 78o-4) shall, at the time of filing the relevant Form MA (17 CFR 249.1300) or Form MA-I (17 CFR 249.1310), file with the Commission a written irrevocable consent and power of attorney on Form MA-NR (17 CFR 249.1330) to appoint an agent in the United States, other than a Commission member, official, or employee, upon whom may be served any process, pleadings, or other papers in any action brought against the municipal advisor's non-resident general partner or non-resident managing agent, or non-resident natural persons who are persons associated with the municipal advisor (as defined in section 15B(e)(7) of the Act (15 U.S.C. 78o-4(e)(7))) and engaged in municipal advisory activities on its behalf, to enforce this chapter.

(b) The registered municipal advisor shall communicate promptly to the Commission by filing a new Form MA-NR (17 CFR 249.1330) any change to the name or address of the agent for service of process of each such non-resident municipal advisor, general partner, managing agent, or natural persons who are persons associated with the municipal advisor (as defined in section 15B(e)(7) of the Act (15 U.S.C. 78o-4(e)(7))) and engaged in municipal advisory activities on its behalf.

(c)(1) Each registered non-resident municipal advisor must promptly appoint a successor agent for service of process and file a new Form MA-NR (17 CFR 249.1330) if the non-resident municipal advisor discharges its identified agent for service of process or if its agent for service of process is unwilling or unable to accept service on behalf of the non-resident municipal advisor.

(2) Each registered municipal advisor must require each of its non-resident general partners or non-resident managing agents, or non-resident natural persons who are persons associated with the municipal advisor (as defined in section 15B(e)(7) of the Act (15 U.S.C. 78o-4(e)(7))) and engaged in municipal advisory activities on its behalf, to promptly appoint a successor agent for service of process and the registered municipal advisor must file a new Form MA-NR (17 CFR 249.1330) if such non-resident general partner, managing agent, or associated person discharges the identified agent
for service of process or if the agent for service of process is unwilling or unable to accept service on behalf of such person.

(d) Each non-resident municipal advisor applying for registration pursuant to section 15B(a) of the Act (15 U.S.C. 78o-4(a)) shall provide an opinion of counsel on Form MA (17 CFR 249.1300) that the municipal advisor can, as a matter of law, provide the Commission with access to the books and records of the municipal advisor as required by law and that the municipal advisor can, as a matter of law, submit to inspection and examination by the Commission.

(e) Form MA-NR (17 CFR 249.1330) must be filed electronically.

Rule 15Ba1-7. Registration of Successor to Municipal Advisor.

(a) In the event that a municipal advisor succeeds to and continues the business of a municipal advisor registered pursuant to section 15B(a) of the Act (15 U.S.C. 78o-4(a)), the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within 30 days after the succession, files an application for registration on Form MA (17 CFR 249.1300), and the predecessor files a notice of withdrawal from registration on Form MA-W (17 CFR 249.1320); provided, however, that the registration of the predecessor municipal advisor will cease to be effective as the registration of the successor municipal advisor 45 days after the application for registration on Form MA is filed by the successor.

(b) Notwithstanding paragraph (a) of this section, if a municipal advisor succeeds to and continues the business of a registered predecessor municipal advisor, and the succession is based solely on a change in the predecessor’s date or state of incorporation, form of organization, or composition of a partnership, the successor may, within 30 days after the succession, amend the registration of the predecessor municipal advisor on Form MA (17 CFR 249.1300) to reflect these changes. This amendment shall be deemed an application for registration filed by the predecessor and adopted by the successor.


(a) Every person registered or required to be registered under section 15B of the Act (15 U.S.C. 78o-4) and the rules and regulations thereunder shall make and keep true, accurate, and current the following books and records relating to its municipal advisory activities:

(1) Originals or copies of all written communications received, and originals or copies of all written communications sent, by such municipal advisor (including inter-office memoranda and communications) relating to municipal advisory activities, regardless of the format of such communications;

(2) All check books, bank statements, general ledgers, cancelled checks and cash reconciliations of the municipal advisor;

(3) A copy of each version of the municipal advisor’s policies and procedures, if any, that:
   (i) Are in effect; or
   (ii) At any time within the last five years were in effect, not including those in effect prior to July 1, 2014;

(4) A copy of any document created by the municipal advisor that was material to making a recommendation to a municipal entity or obligated person or that memorializes the basis for that recommendation;
(5) All written agreements (or copies thereof) entered into by the municipal advisor with any municipal entity, employee of a municipal entity, or an obligated person or otherwise relating to the business of such municipal advisor as such;

(6) A record of the names of persons who are currently, or within the past five years were, associated with the municipal advisor, not including persons associated with the municipal advisor prior to July 1, 2014;

(7) Books and records containing a list or other record of:

(i) The names, titles, and business and residence addresses of all persons associated with the municipal advisor;

(ii) All municipal entities or obligated persons with which the municipal advisor is engaging or has engaged in municipal advisory activities in the past five years, not including those prior to July 1, 2014;

(iii) The name and business address of each person to whom the municipal advisor provides or agrees to provide, directly or indirectly, payment to solicit a municipal entity, an employee of a municipal entity, or an obligated person on its behalf; and

(iv) The name and business address of each person that provides or agrees to provide, directly or indirectly, payment to the municipal advisor to solicit a municipal entity, an employee of a municipal entity, or an obligated person on its behalf; and

(8) Written consents to service of process from each natural person who is a person associated with the municipal advisor and engages in municipal advisory activities solely on behalf of such municipal advisor.

(b)(1) All books and records required to be made under this section shall be maintained and preserved for a period of not less than five years, the first two years in an easily accessible place.

(2) Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the municipal advisor and of any predecessor, excluding those that were only in effect prior to July 1, 2014, shall be maintained in the principal office of the municipal advisor and preserved until at least three years after termination of the business or withdrawal from registration as a municipal advisor.

(c) A municipal advisor subject to paragraph (a) of this section, before ceasing to conduct or discontinuing business as a municipal advisor, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and shall notify the Commission in writing, at its principal office in Washington, DC, of the exact address where such books and records will be maintained during such period.

(d) Electronic Storage Permitted.

(1) General. The records required to be maintained and preserved pursuant to this part may be maintained and preserved for the required time on:

(i) Electronic storage media, including any digital storage medium or system that meets the terms of this section; or

(ii) Paper documents.

(2) General Requirements. The municipal advisor must:

(i) Arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;
(ii) Provide promptly any of the following that the Commission (by its staff or other representatives) may request:

(A) A legible, true, and complete copy of the record in the medium and format in which it is stored;

(B) A legible, true, and complete printout of the record; and

(C) Means to access, view, and print the records; and

(iii) Separately store, for the time required for preservation of the record, a duplicate copy of the record on any medium allowed by this section.

(3) **Special Requirements For Electronic Storage Media.** In the case of records on electronic storage media, the municipal advisor must establish and maintain procedures:

(i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(ii) To limit access to the records to properly authorized personnel and the Commission (including its staff and other representatives); and

(iii) To reasonably ensure that any reproduction of a non-electronic record on electronic storage media is complete, true, and legible when retrieved.

(e)(1) Any book or other record made, kept, maintained, and preserved in compliance with §§ 240.17a-3 and 240.17a-4, rules of the Municipal Securities Rulemaking Board, or § 275.204-2 under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), which is substantially the same as a book or other record required to be made, kept, maintained, and preserved under this section, shall satisfy the requirements of this section.

(2) A record made and kept pursuant to any provision of paragraph (a) of this section that contains all the information required under any other provision of paragraph (a) of this section, need not be maintained in duplicate in order to meet the requirements of the other provisions of paragraph (a) of this section.

(f)(1) Except as provided in paragraph (f)(3) of this section, each non-resident municipal advisor registered or applying for registration pursuant to section 15B of the Act (15 U.S.C. 78o-4) and the rules and regulations thereunder shall keep, maintain, and preserve, at a place within the United States designated in a notice from such municipal advisor as provided in paragraph (f)(2) of this section, true, correct, complete, and current copies of books and records that such municipal advisor is required to make, keep current, maintain or preserve pursuant to any provisions of any rule or regulation of the Commission adopted under the Act.

(2) Except as provided in paragraph (f)(3) of this section, each non-resident municipal advisor subject to paragraph (f)(1) of this section shall furnish to the Commission a written notice specifying the address of the place within the United States where the copies of the books and records required to be kept, maintained, and preserved by such municipal advisor pursuant to paragraph (f)(1) of this section are located. Each non-resident municipal advisor registered or applying for registration when this paragraph becomes effective shall file such notice within 30 calendar days after this paragraph becomes effective. Each non-resident municipal advisor that files an application for registration after this paragraph becomes effective shall file such notice with such application for registration.

(3) Notwithstanding the provisions of paragraphs (f)(1) and (2) of this section, a non-resident municipal advisor need not keep, maintain, or preserve within the United
States copies of the books and records referred to in paragraphs (f)(1) and (2) of this section, if:

(i) Such non-resident municipal advisor files with the Commission, at the time or within the period provided by paragraph (f)(2) of this section, a written undertaking, in a form acceptable to the Commission and signed by a duly authorized person, to furnish to the Commission, upon demand, at the Commission’s principal office in Washington, DC, or at any Regional Office of the Commission designated in such demand, true, correct, complete, and current copies of any or all of the books and records which such municipal advisor is required to make, keep current, maintain, or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Act, or any part of such books and records that may be specified in such demand. Such undertaking shall be in substantially the following form:

The undersigned hereby undertakes to furnish at its own expense to the Securities and Exchange Commission at the Commission’s principal office in Washington, DC or at any Regional Office of the Commission specified in a demand for copies of books and records made by or on behalf of the Commission, true, correct, complete, and current copies of any or all, or any part, of the books and records that the undersigned is required to make, keep current, maintain, or preserve pursuant to any provision of any rule or regulation of the Securities and Exchange Commission under the Securities Exchange Act of 1934. This undertaking shall be suspended during any period when the undersigned is making, keeping current, maintaining, and preserving copies of all of said books and records at a place within the United States in compliance with 17 CFR 240.15Ba1-7(f)(1) and (2) [sic]. This undertaking shall be binding upon the undersigned and the heirs, successors and assigns of the undersigned, and the written irrevocable consents and powers of attorney of the undersigned, its general partners, and managing agents filed with the Securities and Exchange Commission shall extend to and cover any action to enforce the same.

and

(ii) Such non-resident municipal advisor furnishes to the Commission, at such municipal advisor’s own expense 14 calendar days after written demand therefor forwarded to such municipal advisor by registered mail at such municipal advisor’s last address of record filed with the Commission and signed by the Secretary of the Commission or such person as the Commission may authorize to act in its behalf, true, correct, complete, and current copies of any or all books and records which such municipal advisor is required to make, keep current, maintain, or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Act, or any part of such books and records that may be specified in said written demand. Such copies shall be furnished to the Commission at the Commission’s principal office in Washington, DC, or at any Regional Office of the Commission which may be specified in said written demand.

Rule 15Ba2-1. Application For Registration of Municipal Securities Dealers Which Are Banks or Separately Identifiable Departments or Divisions of Banks.

(a) An application for registration, pursuant to Section 15B(a) of the Act, of a municipal securities dealer which is a bank (as defined in Section 3(a)(6) of the Act) or a separately identifiable department or division of a bank (as defined by the Municipal Securities Rulemaking Board), shall be filed with the Commission on Form MSD in accordance with the instructions contained therein.

(b) If the information contained in any application for registration pursuant to paragraph (a) of this rule, or in any amendment to such application, is or becomes
inaccurate for any reason, applicant shall promptly file an amendment on Form MSD correcting such information.

(c) Every amendment filed pursuant to this rule shall constitute a “report” within the meaning of Sections 17 and 32(a) of the Act.


(a) An application for registration, pursuant to section 15B(a) of the Act, of a municipal securities dealer who is not subject to the requirements of § 240.15Ba2-1, that is filed on or after January 25, 1993, shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) on Form BD in accordance with the instructions contained therein.

(b) Every applicant shall file with its application for registration a statement that such applicant is filing for registration as an intrastate dealer in accordance with the requirements of this section. Such statement shall be deemed a part of the application for registration.

(c) If the information contained in any application for registration filed pursuant to paragraph (a) of this section, or in any amendment to such application, is or becomes inaccurate for any reason, the dealer shall promptly file with the Central Registration Depository an amendment on Form BD correcting such information.

(d) Every application or amendment filed with the Central Registration Depository pursuant to this section shall constitute a “report” filed with the Commission within the meaning of Sections 15(b), 15B(c), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78o-4(c), 78q(a), 78r(a), 78fff(a)) and other applicable provisions of the Act.

Rule 15Ba2-4. Registration of Successor to Registered Municipal Securities Dealer.

(a) In the event that a municipal securities dealer succeeds to and continues the business of a registered municipal securities dealer, the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within 30 days after such succession, files an application for registration on Form MSD, in the case of a municipal securities dealer that is a bank or a separately identifiable department or division of a bank, or Form BD, in the case of any other municipal securities dealer, and the predecessor files a notice of withdrawal from registration on Form MSDW or Form BDW, as the case may be; provided, however, that the registration of the predecessor dealer will cease to be effective as the registration of the successor dealer 45 days after the application for registration on Form MSD or Form BD is filed by such successor.

(b) Notwithstanding paragraph (a) of this section, if a municipal securities dealer succeeds to and continues the business of a registered predecessor municipal securities dealer, and the succession is based solely on a change in the predecessor’s date or state of incorporation, form of organization, or composition of a partnership, the successor may, within 30 days after the succession, amend the registration of the predecessor dealer on Form MSD, in the case of a predecessor municipal securities dealer that is a bank or a separately identifiable department or division of a bank, or on Form BD, in the case of any other municipal securities dealer, to reflect these changes. This amendment shall be deemed an application for registration filed by the predecessor and adopted by the successor.
Rule 15Ba2-5. Registration of Fiduciaries.

The registration of a municipal securities dealer shall be deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such registered municipal securities dealer, provided that such fiduciary files with the Commission, within 30 days after entering upon the performance of his duties, a statement setting forth as to such fiduciary substantially the information required by Form MSD, if the municipal securities dealer is a bank or a separately identifiable department of a bank, or Form BD, if the municipal securities dealer is other than a bank or separately identifiable department or division of a bank.

Rule 15Ba2-6. Adoption of Application Filed By Predecessor.

[Removed and Reserved, 12/28/92, Release 34-31661; IA-1357.]

Rule 15Ba2-6T. Temporary Registration as a Municipal Advisor; Required Amendments; and Withdrawal From Temporary Registration.


Rule 15Bc3-1. Withdrawal From Registration of Municipal Securities Dealers.

(a) Notice of withdrawal from registration as a municipal securities dealer pursuant to Section 15B(c) shall be filed on Form MSDW (17 CFR 249.1110), in the case of a municipal securities dealer which is a bank or a separately identifiable department or division of a bank, or Form BDW (17 CFR 249.501a), in the case of any other municipal securities dealer, in accordance with the instructions contained therein. Prior to filing a notice of withdrawal from registration on Form MSDW (17 CFR 249.1110) or Form BDW (17 CFR 249.501a), a municipal securities dealer shall amend Form MSD (17 CFR 249.1100) in accordance with Rule 15Ba2-1(b) or amend Form BD (17 CFR 249.501) in accordance with Rule 15Ba2-2(c) to update any inaccurate information.

(b) Every notice of withdrawal from registration as a municipal securities dealer that is filed on Form BDW (17 CFR 249.501a) shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements. Every notice of withdrawal of Form MSDW (17 CFR 249.1110) shall be filed with the Commission.

(c) A notice of withdrawal from registration filed by a municipal securities dealer pursuant to Section 15B(c) shall become effective for all matters on the 60th day after the filing thereof with the Commission, within such longer period of time as to which such municipal securities dealer consents or which the Commission by order may determine as necessary or appropriate in the public interest or for the protection of investors, or within such shorter period of time as the Commission may determine. If a notice of withdrawal from registration is filed with the Commission at any time subsequent to the date of the issuance of a Commission order instituting proceedings pursuant to Section 15B(c) to censure, place limitations on the activities, functions or operations of, or suspend or revoke the registration of, such municipal securities dealer, or if prior to the effective date of the notice of withdrawal pursuant to this paragraph (c), the Commission institutes such a proceeding or a proceeding to impose terms or conditions upon such withdrawal, the notice of withdrawal shall not become effective pursuant to this paragraph (c) except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.
(d) Every notice of withdrawal filed with the Central Registration Depository pursuant to this Rule 15Bc3-1 shall constitute a “report” filed with the Commission within the meaning of Sections 15B(c), 17(a), 18(a), 32(a) and other applicable provisions of the Securities Exchange Act.

(e) The Commission, by order, may exempt any broker or dealer from the filing requirements provided in Form BDW (17 CFR 249.501a) under conditions that differ from the filing instructions contained in Form BDW.

Rule 15Bc4-1. Persons Associated With Municipal Advisors.

A person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a municipal advisor, shall be subject to a Commission order that censures or places limitations on the activities or functions of such person, or suspends for a period not exceeding twelve months or bars such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of paragraph (4) of section 15(b) of the Act (15 U.S.C. 78o(b)(4)(A), 78o(b)(4)(D), 78o(b)(4)(E), 78o(b)(4)(H), 78o(b)(4)(G)), has been convicted of any offense specified in subparagraph (B) of such paragraph (4) (15 U.S.C. 78o(b)(4)(B)) within 10 years of the commencement of the proceedings under section 15B(c)(4) (15 U.S.C. 78o-4(c)(4)), or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4) (15 U.S.C. 78o(b)(4)(C)). It shall be unlawful for any person as to whom an order entered pursuant to section 15B(c)(4) (15 U.S.C. 78o-4(c)(4)) or section 15B(c)(5) of the Act (15 U.S.C. 78o-4(c)(5)) suspending or barring him from being associated with a municipal advisor is in effect willfully to become, or to be, associated with a municipal advisor without the consent of the Commission, and it shall be unlawful for any municipal advisor to permit such a person to become, or remain, a person associated with it without the consent of the Commission, if such municipal advisor knew, or, in the exercise of reasonable care should have known, of such order.

Rule 15Bc7-1. Availability of Examination Reports.

(a) Upon written request, copies of any report of an examination of a municipal securities dealer made by the Commission or furnished to it by an appropriate regulatory agency pursuant to Section 17(c)(3) of the Act or by a registered securities association pursuant to Section 15B(c)(7)(B) of the Act shall be made available to the Municipal Securities Rulemaking Board (the “Board”) by the Commission, subject to the following limitations:

1. The Board shall establish by rule and shall maintain adequate procedures for ensuring the confidentiality of any information made available to it by the Commission pursuant to Section 15B(c)(7)(B) of the Act;

2. Information made available to the Board shall not identify any municipal securities broker, municipal securities dealer, or associated person that is the subject of a non-public examination report.

(b) If information to be made available to the Board is furnished to the Commission on a separate form prepared by an appropriate regulatory agency other than the Commission or by a registered securities association, that form, rather than a copy of any report of an examination, will be made available to the Board, provided that the conditions set forth in this paragraph are satisfied. Within 60 days of every six-month period ending May 31 and November 30, each appropriate regulatory agency or registered securities association making available information on a separate form shall...
furnish to the Commission two copies of a form containing the information set forth in paragraphs (b)(1) through (b)(8) of this rule. The Commission shall make one copy of the form promptly available to the Board. Copies of any forms furnished pursuant to this paragraph shall not identify any municipal securities broker, municipal securities dealer, or associated person that is the subject of an examination from which information was derived for the form; however, the Commission may obtain for its own use, upon request, the identity of any such examinee or the full examination reports. Furnished forms shall include the following information:

1. The report period;
2. (i) With respect to a registered securities association, the number of examinations that formed the basis of the report and, of these examinations, the number that were routine, special, and financial/operational;
   
   (ii) With respect to an appropriate regulatory agency that is a bank agency, the number of examinations that formed the basis of the report and, of these examinations, the number that were routine, special, and financial/operational. The number of examinations that formed the basis of the report of bank dealers and the number of examinations of separately identifiable departments or divisions of banks effecting municipal securities transactions;
3. Indications of the violations of each Board rule found in examinations that formed the basis for the report;
4. Copies of public notices issued during the report period of any formal actions and non-public information regarding any actions taken on violations of Board rules;
5. Any comments concerning any questionable practices relating to municipal securities activities, whether or not covered by provisions of the Act and the rules and regulations thereunder, including the rules of the Board;
6. Descriptions of any significant or recurring customer complaints relating to municipal securities activities received by the appropriate regulatory agency or registered securities association during the report period or by municipal securities dealers during the 12-month period preceding the examination;
7. Description of any novel issues or interpretations arising under the Board’s rules;
8. Description of any changes to existing Board rules or additional rules that would improve the regulatory scheme for municipal securities professionals or assist in the enforcement of the Board’s rules.

(c) Copies of any report of an examination of a municipal securities broker or municipal securities dealer made by the Commission or furnished to it pursuant to Section 15B(c)(7)(B) or Section 17(c)(3) of the Act, or separate forms made available to the Commission pursuant to paragraph (b) of this rule, will be maintained in a non-public file.

REGISTRATION OF GOVERNMENT SECURITIES BROKERS AND GOVERNMENT SECURITIES DEALERS


(a) Every government securities broker or government securities dealer that is a broker or dealer registered pursuant to Section 15 or 15B of the Act (other than a financial institution as defined in Section 3(a)(46) of the Act) shall file with the Commission written notice on Form BD in accordance with the instructions contained therein that it is a government securities broker or government securities dealer. After
July 25, 1987, every broker or dealer subject to this paragraph shall file notice that it is a government securities broker or government securities dealer prior to or on the date it begins acting as a government securities broker or government securities dealer.

(b) Every government securities broker or government securities dealer required to file notice under paragraph (a) of this rule shall file with the Commission written notice on Form BD in accordance with the instructions contained therein when it ceases to be a government securities broker or government securities dealer. Notice shall be filed within 30 days after the date the broker or dealer has ceased acting as a government securities broker or a government securities dealer.

(c) Any notice required pursuant to this section shall be considered filed with the Commission if it is filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements.

Rule 15Ca2-1. Application For Registration as a Government Securities Broker or Government Securities Dealer.

(a) An application for registration pursuant to Section 15C(a)(1)(A) of the Act, of a government securities broker or government securities dealer that is filed on or after January 25, 1993, shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) on Form BD in accordance with the instructions contained therein.

(b) Every application or amendment filed pursuant to this section shall constitute a “report” filed with the Commission within the meaning of Sections 15, 15C, 17(a), 18, 32(a), and other applicable provisions of the Act.

Rule 15Ca2-2. Statement of Financial Condition to Be Filed With Application For Registration as a Government Securities Broker or Government Securities Dealer.

[Removed and Reserved, 12/28/92, Release No. 34-31660.]

Rule 15Ca2-3. Registration of Successor to Registered Government Securities Broker or Government Securities Dealer.

(a) In the event that a government securities broker or government securities dealer succeeds to and continues the business of a government securities broker or government securities dealer registered pursuant to Section 15C(a)(1)(A) of the Act, the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within 30 days after such succession, files an application for registration on Form BD, and the predecessor files a notice of withdrawal from registration on Form BDW; provided, however, that the registration of the predecessor government securities broker or government securities dealer will cease to be effective as the registration of the successor government securities broker or government securities dealer 45 days after the application for registration on Form BD is filed by such successor.

(b) Notwithstanding paragraph (a) of this section, if a government securities broker or government securities dealer succeeds to and continues the business of a predecessor government securities broker or government securities dealer that is registered pursuant to Section 15C(a)(1)(A) of the Act, and the succession is based solely on a change in the predecessor’s date or state of incorporation, form of organization, or composition of a partnership, the successor may, within 30 days after the succession, amend the registration of the predecessor broker or dealer on Form BD to reflect these changes.
Rule 15Ca2-4. Registration of Fiduciaries.

The registration of a government securities broker or government securities dealer pursuant to Section 15C of the Act shall be deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such registered government securities broker or government securities dealer, provided that such fiduciary files with the Commission, no more than 30 days after entering upon the performance of its duties, a statement setting forth as to such fiduciary substantially the information required by Form BD.

Rule 15Ca2-5. Consent to Service of Process to Be Furnished By Non-Resident Government Securities Brokers or Government Securities Dealers and By Non-Resident General Partners or Managing Agents of Government Securities Brokers or Government Securities Dealers.

(a) Each non-resident government securities broker or government securities dealer applying for registration pursuant to Section 15C(a)(1)(A) of the Act, each non-resident general partner of a government securities broker or government securities dealer partnership that is applying for such registration, and each non-resident managing agent of any other unincorporated government securities broker or government securities dealer that is applying for registration, shall furnish to the Commission, in a form acceptable to the Commission, a written irrevocable consent and power of attorney that:

(1) Designates the Securities and Exchange Commission as an agent of such government securities broker or government securities dealer upon whom may be served any process, pleadings, or other papers in any civil suit or action brought in any appropriate court in any place subject to the jurisdiction of the United States, with respect to any cause of action: (i) that accrues during the period beginning when such government securities broker or government securities dealer becomes registered pursuant to Section 15C(a)(1)(A) and ending either when such registration is cancelled or revoked, or when a notice filed by such government securities broker or government securities dealer to withdraw from such registration becomes effective, whichever is earlier, (ii) that arises out of any activity, in any place subject to the jurisdiction of the United States, occurring in connection with the conduct of the business of such government securities broker or government securities dealer, and (iii) that is founded, directly or indirectly, upon the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or any rule or regulation under any of those Acts; and

(2) Stipulates and agrees that any such civil suit or action may be commenced against such government securities broker or government securities dealer by the service of process upon the Commission and the forwarding of a copy thereof as provided in paragraph (c) of this section and that the service as aforesaid of any such process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

(b) Each government securities broker or government securities dealer registered pursuant to Section 15C(a)(1)(A) that becomes a non-resident government securities broker or government securities dealer, and each general partner or managing agent of an unincorporated government securities broker or government securities dealer registered or applying for registration pursuant to Section 15C(a)(1)(A) who becomes a non-resident after such registration or filing of an application for such registration, shall furnish such consent and power of attorney no more than 30 days thereafter.
(c) Service of any process, pleadings, or other papers on the Commission under this rule shall be made by delivering the requisite number of copies thereof to the Secretary of the Commission or to such other person as the Commission may authorize to act in its behalf. Whenever any process, pleadings, or other papers as aforesaid are served upon the Commission, if shall promptly forward a copy thereof by registered or certified mail to the appropriate defendants at their last address of record filed with the Commission; but any failure by the Commission to forward such a copy shall have no effect on the validity of the service made upon the Commission. The Commission shall be furnished a sufficient number of copies for such purpose, and one copy for its file.

(d) For purposes of this rule the following definitions shall apply:

(1) The term “managing agent” shall mean any person, including a trustee, who directs or manages or who participates in the directing or managing of the affairs of any unincorporated organization or association that is not a partnership.

(2) The term “non-resident government securities broker or government securities dealer” shall mean: (i) in the case of an individual, one who is domiciled in or has his principal place of business in any place not subject to the jurisdiction of the United States, (ii) in the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States, (iii) in the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

(3) A general partner or managing agent of a government securities broker or government securities dealer shall be deemed to be a non-resident if he is domiciled in any place not subject to the jurisdiction of the United States.

Rule 15Cc1-1. Withdrawal From Registration of Government Securities Brokers or Government Securities Dealers.

(a) Notice of withdrawal from registration as a government securities broker or government securities dealer pursuant to Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o-5(a)(1)(A)) shall be filed on Form BDW (17 CFR 249.501a) in accordance with the instructions contained therein. Every notice of withdrawal from registration as a government securities broker or dealer shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements. Prior to filing a notice of withdrawal from registration on Form BDW (17 CFR 249.501a), a government securities broker or government securities dealer shall amend Form BD (17 CFR 249.501) in accordance with 17 CFR 400.5(a) to update any inaccurate information.

(b) A notice of withdrawal from registration filed by a government securities broker or government securities dealer shall become effective for all matters on the 60th day after the filing thereof with the Commission, within such longer period of time as to which such government securities broker or government securities dealer consents or the Commission by order may determine as necessary or appropriate in the public interest or for the protection of investors, or within such shorter period of time as the Commission may determine. If a notice of withdrawal from registration is filed with the Commission at any time subsequent to the date of the issuance of a Commission order instituting proceedings pursuant to Section 15C(c) to censure, place limitations on the activities, functions or operations of, or suspend or revoke the registration of such government securities broker or government securities dealer, or if prior to the effective date of the notice of withdrawal pursuant to this paragraph (b), the Commission institutes such a proceeding or a proceeding to impose terms or conditions upon such withdrawal, the notice of withdrawal shall not become effective pursuant to this paragraph (b) except at such time and upon
such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

(c) Every notice of withdrawal filed with the Central Registration Depository pursuant to this Rule 15Cc1-1 shall constitute a “report” filed with the Commission within the meaning of Sections 15(b), 15C(c), 17(a), 18(a), 32(a) and other applicable provisions of the Securities Exchange Act.

(d) The Commission, by order, may exempt any broker or dealer from the filing requirements provided in Form BDW (17 CFR 249.501a) under conditions that differ from the filing instructions contained in Form BDW.

REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS

Rule 15Fb1-1. Signatures.*

(a) Required signatures to, or within, any electronic submission (including, without limitation, signatories within the forms and certifications required by §§ 240.15Fb2-1, 240.15Fb2-4 and 240.15Fb6-2) must be in typed form rather than manual format. Signatures in an HTML, XML or XBRL document that are not required may, but are not required to, be presented in a graphic or image file within the electronic filing. When used in connection with an electronic filing, the term “signature” means an electronic entry in the form of a magnetic impulse or other form of computer data compilation of any letters or series of letters or characters comprising a name, executed, adopted or authorized as a signature.

(b) Each signatory to an electronic filing (including, without limitation, each signatory to the forms and certifications required by §§ 240.15Fb2-1, 240.15Fb2-4 and 240.15Fb6-2) shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the electronic filing is made. Upon request, the security-based swap dealer or major security-based swap participant shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this paragraph (b).

(c) A person required to provide a signature on an electronic submission (including, without limitation, each signatory to the forms and certifications required by §§ 240.15Fb2-1, 240.15Fb2-4 and 240.15Fb6-2) may not have the form or certification

*Effective October 13, 2015, Rule 15Fb1-1 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.
signed on his or her behalf pursuant to a power of attorney or other form of confirming authority.

(d) Each manually signed signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing—

(1) On Schedule F to Form SBSE (§ 249.1600 of this chapter), SBSE-A (§ 249.1600a of this chapter), or SBSE-BD (§ 249.1600b of this chapter), as appropriate, shall be retained by the filer until at least three years after the form or certification has been replaced or is no longer effective;

(2) On Form SBSE-C (§ 249.1600c of this chapter) shall be retained by the filer until at least three years after the Form was filed with the Commission.

Rule 15Fb2-1. Registration of Security-Based Swap Dealers and Major Security-Based Swap Participants.*

(a) Application. An application for registration of a security-based swap dealer or a major security-based swap participant that is filed pursuant to Section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. § 78o-10(b)) shall be filed on Form SBSE (§ 249.1600 of this chapter) or Form SBSE-A (§ 249.1600a of this chapter) or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, in accordance with paragraph (c) and the instructions to the forms. Applicants shall also file as part of their application the required certifications on Form SBSE-C (§ 249.1600c of this chapter).

(b) Senior Officer Certification. A senior officer shall certify on Form SBSE-C (§ 249.1600c of this chapter) that;

(1) After due inquiry, he or she has reasonably determined that the security-based swap dealer or major security-based swap participant has developed and implemented written policies and procedures reasonably designed to prevent violation of federal securities laws and the rules thereunder, and

(2) He or she has documented the process by which he or she reached such determination.

(c) Filing—

(1) Electronic Filing. Every application for registration of a security-based swap dealer or major security-based swap participant and any additional registration

*Effective October 13, 2015, Rule 15Fb2-1 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.
documents shall be filed electronically with the Commission through the Commission's EDGAR system.

(2) **Filing Date.** An application of a security-based swap dealer or a major security-based swap participant submitted pursuant to paragraph (a) of this section shall be considered filed when an applicant has submitted a complete Form SBSE-C (§ 249.1600c of this chapter) and a complete Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, and all required additional documents electronically with the Commission.

(d) **Conditional Registration.** An applicant that has submitted a complete Form SBSE-C (§ 249.1600c of this chapter) and a complete Form SBSE (§ 249.1600 of this chapter) or Form SBSE-A (§ 249.1600a of this chapter) or Form SBSE-BD (§ 249.1600b of this chapter), as applicable, in accordance with paragraph (b) within the time periods set forth in § 240.3a67-8 (if the person is a major security-based swap participant) or § 240.3a71-2(b) (if the person is a security-based swap dealer), and has not withdrawn its registration shall be conditionally registered.

(e) **Commission Decision.** The Commission may deny or grant ongoing registration to a security-based swap dealer or major security-based swap participant based on a security-based swap dealer's or major security-based swap participant's application, filed pursuant to paragraph (a) of this section. The Commission will grant ongoing registration if it finds that the requirements of Section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) are satisfied. The Commission may institute proceedings to determine whether ongoing registration should be denied if it does not or cannot make such finding or if the applicant is subject to a statutory disqualification (as described in Sections 3(a)(39)(A) through (F) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(A)–(F)), or the Commission is aware of inaccurate statements in the application. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing. At the conclusion of such proceedings, the Commission shall grant or deny such registration.

**Rule 15Fb2-3. Amendments to Form SBSE, Form SBSE-A, and Form SBSE-BD.**

If a security-based swap dealer or a major security-based swap participant finds that the information contained in its Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, or in any amendment thereto, is or has become inaccurate for any reason, the security-based swap dealer or a major security-based swap participant

*Effective October 13, 2015, Rule 15Fb2-3 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.*
shall promptly file an amendment electronically with the Commission through the
Commission’s EDGAR system on the appropriate Form to correct such information.

Rule 15Fb2-4. Nonresident Security-Based Swap Dealers and Major Security-
Based Swap Participants.*

(a) Definition. For purposes of this section, the terms nonresident security-based
swap dealer and nonresident major security-based swap participant shall mean:

(1) In the case of an individual, one who resides, or has his or her principal place of
business, in any place not in the United States;

(2) In the case of a corporation, one incorporated in or having its principal place of
business in any place not in the United States; or

(3) In the case of a partnership or other unincorporated organization or association,
one having its principal place of business in any place not in the United States.

(b) Power of Attorney.

(1) Each nonresident security-based swap dealer and nonresident major security-
based swap participant registered or applying for registration pursuant to Section
15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall obtain a
written irrevocable consent and power of attorney appointing an agent in the United
States, other than the Commission or a Commission member, official or employee,
upon whom may be served any process, pleadings, or other papers in any action
brought against the nonresident security-based swap dealer or nonresident major
security-based swap participant to enforce the Securities Exchange Act of 1934 (15
U.S.C. 78a et seq.). This consent and power of attorney must be signed by the non-
resident security-based swap dealer or nonresident major security-based swap partic-
ipant and the named agent(s) for service of process.

(2) Each nonresident security-based swap dealer and nonresident major security-
based swap participant registered or applying for registration pursuant to Section
15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall, at the time
of filing its application on Form SBSE (§ 249.1600 of this chapter), Form SBSE-A
(§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as
appropriate, furnish to the Commission the name and address of its United States agent
for service of process on Schedule F to the appropriate form.

*Effective October 13, 2015, Rule 15Fb2-4 is added in accordance with Section 15F of the
Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall
Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the
registration of security-based swap dealers and major security-based swap participants (collect-
later of: six months after the date of publication in the Federal Register of a final rule release
adopter rules establishing capital, margin and segregation requirements for SBS Entities; the
compliance date of final rules establishing recordkeeping and reporting requirements for SBS
Entities; the compliance date of final rules establishing business conduct requirements under
Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a
process for a registered SBS Entity to make an application to the SEC to allow an associated
person who is subject to a statutory disqualification to effect or be involved in effecting security-
based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the
registration and other requirements, persons are not required to begin calculating whether their
activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and
3a67-5 until two months prior to the Compliance Date of these rules.
(3) Any change of a nonresident security-based swap dealer’s and nonresident major security-based swap participant’s agent for service of process and any change of name or address of a nonresident security-based swap dealer’s and nonresident major security-based swap participant’s existing agent for service of process shall be communicated promptly to the Commission through amendment of the Schedule F of Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate.

(4) Each nonresident security-based swap dealer and nonresident major security-based swap participant must promptly appoint a successor agent for service of process, consistent with the process described in paragraph (b)(1), if the nonresident security-based swap dealer and nonresident major security-based swap participant discharges its identified agent for service of process or if its agent for service of process is unwilling or unable to accept service on behalf of the nonresident security-based swap dealer or nonresident major security-based swap participant.

(5) Each nonresident security-based swap dealer and nonresident major security-based swap participant must maintain, as part of its books and records, the agreement identified in paragraphs (b)(1) and (b)(4) of this section for at least three years after the agreement is terminated.

(c) *Access to Books and Records*

(1) *Certification and Opinion of Counsel.* Each nonresident security-based swap dealer and nonresident major security-based swap participant applying for registration pursuant to Section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall:

(i) Certify on Schedule F of Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, that the nonresident security-based swap dealer and nonresident major security-based swap participant can, as a matter of law, and will provide the Commission with prompt access to the books and records of such nonresident security-based swap dealer and nonresident major security-based swap participant, and can, as a matter of law, and will submit to onsite inspection and examination by the Commission; and

(ii) Provide an opinion of counsel that the nonresident security-based swap dealer and nonresident major security-based swap participant can, as a matter of law, provide the Commission with prompt access to the books and records of such nonresident security-based swap dealer and nonresident major security-based swap participant, and can, as a matter of law, submit to onsite inspection and examination by the Commission.

(2) *Amendments.* Each nonresident security-based swap dealer and nonresident major security-based swap participant shall re-certify, on Schedule F to Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as applicable, within 90 days after any changes in the legal or regulatory framework that would impact the nonresident security-based swap dealer’s or nonresident major security-based swap participant’s ability to provide, or the manner in which it provides the Commission with prompt access to its books and records, or would impact the Commission’s ability to inspect and examine the nonresident security-based swap dealer or nonresident major security-based swap participant. The re-certification shall be accompanied by a revised opinion of counsel describing how, as a matter of law, the nonresident security-based swap dealer or nonresident major security-based swap participant will continue to meet its obligations to provide the Commission with prompt access to its books and records and to be subject to Commission inspection and examination under the new regulatory regime.
Rule 15Fb2-5. Registration of Successor to Registered Security-Based Swap Dealer or a Major Security-Based Swap Participant.*

(a) In the event that a security-based swap dealer or major security-based swap participant succeeds to and continues the business of a security-based swap dealer or major security-based swap participant registered pursuant to Section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)), the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within 30 days after such succession, files an application for registration in accordance with § 240.15Fb2-1, and the predecessor files a notice of withdrawal from registration on Form SBSE-W (§ 249.1601 of this chapter).

(b) Notwithstanding paragraph (a) of this section, if a security-based swap dealer or major security-based swap participant succeeds to and continues the business of a registered predecessor security-based swap dealer or major security-based swap participant, and the succession is based solely on a change in the predecessor’s date or state of incorporation, form of organization, or composition of a partnership, the successor may, within 30 days after the succession, amend the registration of the predecessor security-based swap dealer or major security-based swap participant on Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, to reflect these changes. This amendment shall be deemed an application for registration filed by the predecessor and adopted by the successor.

Rule 15Fb2-6. Registration of Fiduciaries.**

The registration of a security-based swap dealer or a major security-based swap participant shall be deemed to be the registration of any executor, administrator,
guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such registered security-based swap dealer or a major security-based swap participant; Provided, that such fiduciary files with the Commission, within 30 days after entering upon the performance of his or her duties, an amended Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter), or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, indicating the fiduciary’s position with respect to management of the firm and, as an additional document, a copy of the order, judgment, decree, or other document appointing the fiduciary.

Rule 15Fb3-1. Duration of Registration.*

(a) General. A person registered as a security-based swap dealer or major security-based swap participant in accordance with § 240.15Fb2-1 will continue to be so registered until the effective date of any cancellation, revocation or withdrawal of such registration.

(b) Conditional Registration. Notwithstanding paragraph (a) of this section, conditional registration shall expire on the date the registrant withdraws from registration or the Commission grants or denies the person’s ongoing registration in accordance with § 240.15Fb2-1(e).

Rule 15Fb3-2. Withdrawal From Registration.**

(a) Notice of withdrawal from registration as a security-based swap dealer or major security-based swap participant pursuant to Section 15F(b) of the Securities Exchange based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.

*Effective October 13, 2015, Rule 15Fb3-1 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.

**Effective October 13, 2015, Rule 15Fb3-2 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.
Act of 1934 (15 U.S.C. 78o-10(b)) shall be filed on Form SBSE-W (§ 249.1601 of this chapter) in accordance with the instructions contained therein. Every notice of withdrawal from registration as a security-based swap dealer or major security-based swap participant shall be filed electronically with the Commission through the Commission’s EDGAR system. Prior to filing a notice of withdrawal from registration on Form SBSE-W, a security-based swap dealer or major security-based swap participant shall amend its Form SBSE (§ 249.1600 of this chapter), Form SBSE-A (§ 249.1600a of this chapter) or Form SBSE-BD (§ 249.1600b of this chapter), as appropriate, in accordance with § 240.15Fb2-3(a) to update any inaccurate information.

(b) A notice of withdrawal from registration filed by a security-based swap dealer or major security-based swap participant pursuant to Section 15F(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(b)) shall become effective for all matters (except as provided in this paragraph (b)) on the 60th day after the filing thereof with the Commission or its designee, within such longer period of time as to which such security-based swap dealer or major security-based swap participant consents or which the Commission by order may determine as necessary or appropriate in the public interest or for the protection of investors, or within such shorter period of time as the Commission may determine. If a notice of withdrawal from registration is filed with the Commission at any time subsequent to the date of the issuance of a Commission order instituting proceedings to censure, place limitations on the activities, functions or operations of, or suspend or revoke the registration of, such security-based swap dealer or major security-based swap participant, or if prior to the effective date of the notice of withdrawal pursuant to this paragraph (b), the Commission institutes such a proceeding or a proceeding to impose terms or conditions upon such withdrawal, the notice of withdrawal shall not become effective pursuant to this paragraph (b) except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

Rule 15Fb3-3. Cancellation and Revocation of Registration.*

(a) Cancellation. If the Commission finds that any person registered pursuant to § 240.15Fb2-1 is no longer in existence or has ceased to do business as a security-based

*Effective October 13, 2015, Rule 15Fb3-3 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.
swap dealer or major security-based swap participant, the Commission shall by order cancel the registration of such person.

(b) Revocation. The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission if it makes a finding as specified in Section 15F(l)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(l)(2)).

Rule 15Fb6-1. Associated Persons.*

[Removed and Reserved. SEC Release No. 34-84858; December 19, 2018. Effective Date: April 22, 2019.]

Rule 15Fb6-2. Associated Person Certification.**

(a) Certification. No registered security-based swap dealer or major security-based swap participant shall act as a security-based swap dealer or major security-based activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.

*Effective April 22, 2019, Rule 15Fb6-1 is removed and reserved as part of rules related to applications by security-based swap dealers or major security-based swap participants (collectively, an SBS Entity) for statutorily disqualified associated persons to effect or be involved in effecting security-based swaps. See SEC Release No. 34-84858; December 19, 2018. Compliance Date: The compliance date for the SBS Entity registration rules is the later of: Six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin, and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act §§ 15F(h) and 15F(k); or the compliance date of final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf.

Effective October 13, 2015, Rule 15Fb6-1 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.

**Effective October 13, 2015, Rule 15Fb6-2 is added in accordance with Section 15F of the Securities Exchange Act of 1934, which was added by Section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants (collectively, SBS Entities). See SEC Release No. 34-75611; August 5, 2015. Compliance Dates: The later of: six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin and segregation requirements for SBS Entities; the
swap participant unless it has certified electronically on Form SBSE-C (Section 249.1600c of this chapter) that it neither knows, nor in the exercise of reasonable care should have known, that any person associated with such security-based swap dealer or major security-based swap participant who effects or is involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant is subject to a statutory disqualification, as described in Sections 3(a)(39)(A) through (F) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(A)–(F)), unless otherwise specifically provided by rule, regulation or order of the Commission.

(b) To support the certification required by paragraph (a) of this section, the security-based swap dealer’s or major security-based swap participant’s Chief Compliance Officer, or his or her designee, shall review and sign the questionnaire or application for employment, which the security-based swap dealer or major security-based swap participant is required to obtain pursuant to the relevant recordkeeping rule applicable to such security-based swap dealer or major security-based swap participant, executed by each associated person who is a natural person and who effects or is involved in effecting security based swaps on the security-based swap dealer’s or major security-based swap participant’s behalf. The questionnaire or application shall serve as a basis for a background check of the associated person to verify that the person is not subject to statutory disqualification.

Rule 15Fh-1. Scope and Reliance on Representations.*

(a) Scope. Sections 240.15Fh-1 through 240.15Fh-6, and 240.15Fk-1 are not intended to limit, or restrict, the applicability of other provisions of the federal securities laws, including but not limited to section 17(a) of the Securities Act of 1933 and sections 9 and 10(b) of the Act, and rules and regulations thereunder, or other applicable laws and rules and regulations. Sections 240.15Fh-1 through 240.15Fh-6, and 240.15Fk-1 apply, as relevant, in connection with entering into security-based swaps and continue to apply, as appropriate, over the term of executed security-based swaps. Sections 240.15Fh-3(a) through 240.15Fh-3(f), 240.15Fh-4(b) and 240.15Fh-5 are not applicable to security-based swaps that security-based swap dealers or major security-based swap participants enter into with their majority-owned affiliates. For these purposes the counterparties to a security-based swap are majority-owned affiliates if one counterparty directly or indirectly owns a majority interest in the other, or if a third party directly or indirectly owns a majority interest in both counterparties to the security-based swap, where “majority interest” is the right to vote or direct the vote of compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; the compliance date of final rules establishing business conduct requirements under Exchange Act Sections 15F(h) and 15F(k); or the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf. Counting Date: For purposes of complying with the registration and other requirements, persons are not required to begin calculating whether their activities meet or exceed the thresholds established in Exchange Act Rules 3a71-2, 3a67-3, and 3a67-5 until two months prior to the Compliance Date of these rules.

*Effective July 12, 2016, Rule 15Fh-1 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. Compliance Date: With the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(ii)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
a majority of a class of voting securities of an entity, the power to sell or direct the sale of a majority of a class of voting securities of an entity, or the right to receive upon dissolution or the contribution of a majority of the capital of a partnership.

(b) Reliance on Representations. A security-based swap dealer or major security-based swap participant may rely on written representations from the counterparty or its representative to satisfy its due diligence requirements under § 240.15Fh [sic], unless it has information that would cause a reasonable person to question the accuracy of the representation.

Rule 15Fh-2. Definitions.*

As used in §§ 240.15Fh-1 through 240.15Fh-6:

(a) Act as an Advisor to a Special Entity. A security-based swap dealer acts as an advisor to a special entity when it recommends a security-based swap or a trading strategy that involves the use of a security-based swap to the special entity, unless:

(1) With respect to a special entity as defined in § 240.15Fh-2(d)(3):

(i) The special entity represents in writing that it has a fiduciary as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) that is responsible for representing the special entity in connection with the security-based swap;

(ii) The fiduciary represents in writing that it acknowledges that the security-based swap dealer is not acting as an advisor; and

(iii) The special entity represents in writing:

(A) That it will comply in good faith with written policies and procedures reasonably designed to ensure that any recommendation the special entity receives from the security-based swap dealer involving a security-based swap transaction is evaluated by a fiduciary before the transaction is entered into; or

(B) That any recommendation the special entity receives from the security-based swap dealer involving a security-based swap transaction will be evaluated by a fiduciary before the transaction is entered into.

(2) With respect to any special entity:

(i) The special entity represents in writing that:

(A) It acknowledges that the security-based swap dealer is not acting as an advisor; and

(B) The special entity will rely on advice from a qualified independent representative as defined in § 240.15Fh-5(a); and

*Effective July 12, 2016, Rule 15Fh-2 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. Compliance Date: With the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(i)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
(ii) The security-based swap dealer discloses to the special entity that it is not undertaking to act in the best interest of the special entity, as otherwise required by section 15F(h)(4) of the Act.

(b) **Eligible contract participant** means any person as defined in section 3(a)(65) of the Act and the rules and regulations thereunder and in section 1a of the Commodity Exchange Act (7 U.S.C. 1a) and the rules and regulations thereunder.

(c) **Security-based swap dealer or major security-based swap participant** includes, where relevant, an associated person of the security-based swap dealer or major security-based swap participant.

(d) **Special entity** means:

1. A Federal agency;
2. A State, State agency, city, county, municipality, other political subdivision of a State, or any instrumentality, department, or a corporation of or established by a State or political subdivision of a State;
3. Any employee benefit plan, subject to Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002);
4. Any employee benefit plan defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) and not otherwise defined as a special entity, unless such employee benefit plan elects not to be a special entity by notifying a security-based swap dealer or major security-based swap participant of its election prior to entering into a security-based swap with the particular security-based swap dealer or major security-based swap participant;
5. Any governmental plan, as defined in section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)); or
6. Any endowment, including an endowment that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

(e) A person is subject to a statutory disqualification for purposes of § 240.15Fh-5 if that person would be subject to a statutory disqualification, as described in section 3(a)(39)(A)–(F) of the Act.

**Rule 15Fh-3. Business Conduct Requirements.***

(a) **Counterparty Status**—

1. **Eligible Contract Participant.** A security-based swap dealer or a major security-based swap participant shall verify that a counterparty meets the eligibility standards for an eligible contract participant before entering into a security-based swap with that counterparty, provided that the requirements of this paragraph (a)(1) shall not apply to a transaction executed on a registered national securities exchange.

*Effective July 12, 2016, Rule 15Fh-3 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. Compliance Date: With the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(i)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
(2) Special Entity. A security-based swap dealer or a major security-based swap participant shall verify whether a counterparty is a special entity before entering into a security-based swap with that counterparty, unless the transaction is executed on a registered or exempt security-based swap execution facility or registered national securities exchange, and the security-based swap dealer or major security-based swap participant does not know the identity of the counterparty at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer or major security-based swap participant to comply with the obligations of paragraph (a) of this section.

(3) Special Entity Election. In verifying the special entity status of a counterparty pursuant to §240.15Fh-3(a)(2), a security-based swap dealer or major security-based swap participant shall verify whether a counterparty is eligible to elect not to be a special entity under §240.15Fh-2(d)(4) and, if so, notify such counterparty of its right to make such an election.

(b) Disclosure. At a reasonably sufficient time prior to entering into a security-based swap, a security-based swap dealer or major security-based swap participant shall disclose to a counterparty, other than a security-based swap dealer, major security-based swap participant, swap dealer or major swap participant, material information concerning the security-based swap in a manner reasonably designed to allow the counterparty to assess the material risks and characteristics and material incentives or conflicts of interest, as described below, so long as the identity of the counterparty is known to the security-based swap dealer or major security-based swap participant at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer or major security-based swap participant to comply with the obligations of paragraph (b) of this section.

(1) Material risks and characteristics means the material risks and characteristics of the particular security-based swap, which may include:

(i) Market, credit, liquidity, foreign currency, legal, operational, and any other applicable risks; and

(ii) The material economic terms of the security-based swap, the terms relating to the operation of the security-based swap, and the rights and obligations of the parties during the term of the security-based swap.

(2) Material incentives or conflicts of interest means any material incentives or conflicts of interest that the security-based swap dealer or major security-based swap participant may have in connection with the security-based swap, including any compensation or other incentives from any source other than the counterparty in connection with the security-based swap to be entered into with the counterparty.

(3) Record. The security-based swap dealer or major security-based swap participant shall make a written record of the non-written disclosures made pursuant to this paragraph (b), and provide a written version of these disclosures to its counterparties in a timely manner, but in any case no later than the delivery of the trade acknowledgement of the particular transaction pursuant to §240.15Fi-1.

(c) Daily Mark. A security-based swap dealer or major security-based swap participant shall disclose the daily mark to the counterparty, other than a security-based swap dealer, major security-based swap participant, swap dealer or major swap participant, which shall be:

(1) For a cleared security-based swap, upon request of the counterparty, the daily mark that the security-based swap dealer or major security-based swap participant receives from the appropriate clearing agency;
(2) For an uncleared security-based swap, the midpoint between the bid and offer, or the calculated equivalent thereof, as of the close of business, unless the parties agree in writing otherwise to a different time, on each business day during the term of the security-based swap. The daily mark may be based on market quotations for comparable security-based swaps, mathematical models or a combination thereof. The security-based swap dealer or major security-based swap participant shall also disclose its data sources and a description of the methodology and assumptions used to prepare the daily mark, and promptly disclose any material changes to such data sources, methodology and assumptions during the term of the security-based swap; and

(3) The security-based swap dealer or major security-based swap participant shall provide the daily mark without charge to the counterparty and without restrictions on the internal use of the daily mark by the counterparty.

(d) Disclosure Regarding Clearing Rights. A security-based swap dealer or major security-based swap participant shall disclose the following information to a counterparty, other than a security-based swap dealer, major security-based swap participant, swap dealer or major swap participant, so long as the identity of the counterparty is known to the security-based swap dealer or major security-based swap participant at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer or major security-based swap participant to comply with the obligations of paragraph (d) of this section:

(1) For Security-Based Swaps Subject to Clearing Requirement. Before entering into a security-based swap subject to the clearing requirement under section 3C(a) of the Act, a security-based swap dealer or major security-based swap participant shall:

(i) Disclose to the counterparty the names of the clearing agencies that accept the security-based swap for clearing, and through which of those clearing agencies the security-based swap dealer or major security-based swap participant is authorized or permitted, directly or through a designated clearing member, to clear the security-based swap; and

(ii) Notify the counterparty that it shall have the sole right to select which of the clearing agencies described in paragraph (d)(1)(i) of this section shall be used to clear the security-based swap subject to section 3C(g)(5) of the Act.

(2) For Security-Based Swaps Not Subject to Clearing Requirement. Before entering into a security-based swap not subject to the clearing requirement under section 3C(a) of the Act, a security-based swap dealer or major security-based swap participant shall:

(i) Determine whether the security-based swap is accepted for clearing by one or more clearing agencies;

(ii) Disclose to the counterparty the names of the clearing agencies that accept the security-based swap for clearing, and whether the security-based swap dealer or major security-based swap participant is authorized or permitted, directly or through a designated clearing member, to clear the security-based swap through such clearing agencies; and

(iii) Notify the counterparty that it may elect to require clearing of the security-based swap and shall have the sole right to select the clearing agency at which the security-based swap will be cleared, provided it is a clearing agency at which the security-based swap dealer or major security-based swap participant is authorized or permitted, directly or through a designated clearing member, to clear the security-based swap.

(3) Record. The security-based swap dealer or major security-based swap participant shall make a written record of the non-written disclosures made pursuant to this paragraph (d), and provide a written version of these disclosures to its counterparties in
a timely manner, but in any case no later than the delivery of the trade acknowledgement of the particular transaction pursuant to § 240.15Fi-1.

(e) Know Your Counterparty. Each security-based swap dealer shall establish, maintain and enforce written policies and procedures reasonably designed to obtain and retain a record of the essential facts concerning each counterparty whose identity is known to the security-based swap dealer that are necessary for conducting business with such counterparty. For purposes of paragraph (e) of this section, the essential facts concerning a counterparty are:

(1) Facts required to comply with applicable laws, regulations and rules;

(2) Facts required to implement the security-based swap dealer’s credit and operational risk management policies in connection with transactions entered into with such counterparty; and

(3) Information regarding the authority of any person acting for such counterparty.

(f) Recommendations of Security-Based Swaps or Trading Strategies.

(1) A security-based swap dealer that recommends a security-based swap or trading strategy involving a security-based swap to a counterparty, other than a security-based swap dealer, major security-based swap participant, swap dealer, or major swap participant, must:

(i) Undertake reasonable diligence to understand the potential risks and rewards associated with the recommended security-based swap or trading strategy involving a security-based swap; and

(ii) Have a reasonable basis to believe that a recommended security-based swap or trading strategy involving a security-based swap is suitable for the counterparty. To establish a reasonable basis for a recommendation, a security-based swap dealer must have or obtain relevant information regarding the counterparty, including the counterparty’s investment profile, trading objectives, and its ability to absorb potential losses associated with the recommended security-based swap or trading strategy involving a security-based swap.

(2) A security-based swap dealer may also fulfill its obligations under paragraph (f)(1)(ii) of this section with respect to an institutional counterparty, if:

(i) The security-based swap dealer reasonably determines that the counterparty, or an agent to which the counterparty has delegated decision-making authority, is capable of independently evaluating investment risks with regard to the relevant security-based swap or trading strategy involving a security-based swap;

(ii) The counterparty or its agent affirmatively represents in writing that it is exercising independent judgment in evaluating the recommendations of the security-based swap dealer with regard to the relevant security-based swap or trading strategy involving a security-based swap; and

(iii) The security-based swap dealer discloses that it is acting in its capacity as a counterparty, and is not undertaking to assess the suitability of the security-based swap or trading strategy for the counterparty.

(3) A security-based swap dealer will be deemed to have satisfied its obligations under paragraph (f)(2)(i) of this section if it receives written representations, as provided in § 240.15Fh-1(b), that:

(i) In the case of a counterparty that is not a special entity, the counterparty has complied in good faith with written policies and procedures that are reasonably
designed to ensure that the persons responsible for evaluating the recommendation and making trading decisions on behalf of the counterparty are capable of doing so; or

(ii) In the case of a counterparty that is a special entity, satisfy the terms of the safe harbor in § 240.15Fh-5(b).

(4) For purposes of paragraph (f)(2) of this section, an institutional counterparty is a counterparty that is an eligible contract participant as defined in clauses (A)(i), (ii), (iii), (iv), (viii), (ix) or (x), or clause (B)(ii) (other than a person described in clause (A)(v)) of section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1(a)(18)) and the rules and regulations thereunder, or any person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

(g) **Fair and Balanced Communications.** A security-based swap dealer or major security-based swap participant shall communicate with counterparties in a fair and balanced manner based on principles of fair dealing and good faith. In particular:

(1) Communications must provide a sound basis for evaluating the facts with regard to any particular security-based swap or trading strategy involving a security-based swap;

(2) Communications may not imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast; and

(3) Any statement referring to the potential opportunities or advantages presented by a security-based swap shall be balanced by an equally detailed statement of the corresponding risks.

(h) **Supervision—**

(1) **In General.** A security-based swap dealer or major security-based swap participant shall establish and maintain a system to supervise, and shall diligently supervise, its business and the activities of its associated persons. Such a system shall be reasonably designed to prevent violations of the provisions of applicable federal securities laws and the rules and regulations thereunder relating to its business as a security-based swap dealer or major security-based swap participant, respectively.

(2) **Minimum Requirements.** The system required by paragraph (h)(1) of this section shall, at a minimum, provide for:

(i) The designation of at least one person with authority to carry out the supervisory responsibilities of the security-based swap dealer or major security-based swap participant for each type of business in which it engages for which registration as a security-based swap dealer or major security-based swap participant is required;

(ii) The use of reasonable efforts to determine that all supervisors are qualified, either by virtue of experience or training, to carry out their assigned responsibilities; and

(iii) Establishment, maintenance and enforcement of written policies and procedures addressing the supervision of the types of security-based swap business in which the security-based swap dealer or major security-based swap participant is engaged and the activities of its associated persons that are reasonably designed to prevent violations of applicable federal securities laws and the rules and regulations thereunder, and that include, at a minimum:

(A) Procedures for the review by a supervisor of transactions for which registration as a security-based swap dealer or major security-based swap participant is required;
(B) Procedures for the review by a supervisor of incoming and outgoing written (including electronic) correspondence with counterparties or potential counterparties and internal written communications relating to the security-based swap dealer’s or major security-based swap participant’s business involving security-based swaps;

(C) Procedures for a periodic review, at least annually, of the security-based swap business in which the security-based swap dealer or major security-based swap participant engages that is reasonably designed to assist in detecting and preventing violations of applicable federal securities laws and the rules and regulations thereunder;

(D) Procedures to conduct a reasonable investigation regarding the good character, business repute, qualifications, and experience of any person prior to that person’s association with the security-based swap dealer or major security-based swap participant;

(E) Procedures to consider whether to permit an associated person to establish or maintain a securities or commodities account or a trading relationship in the name of, or for the benefit of such associated person, at another security-based swap dealer, broker, dealer, investment adviser, or other financial institution; and if permitted, procedures to supervise the trading at the other security-based swap dealer, broker, dealer, investment adviser, or financial institution;

(F) A description of the supervisory system, including the titles, qualifications and locations of supervisory persons and the responsibilities of each supervisory person with respect to the types of business in which the security-based swap dealer or major security-based swap participant is engaged;

(G) Procedures prohibiting an associated person who performs a supervisory function from supervising his or her own activities or reporting to, or having his or her compensation or continued employment determined by, a person or persons he or she is supervising; provided, however, that if the security-based swap dealer or major security-based swap participant determines, with respect to any of its supervisory personnel, that compliance with this requirement is not possible because of the firm’s size or a supervisory person’s position within the firm, the security-based swap dealer or major security-based swap participant must document the factors used to reach such determination and how the supervisory arrangement with respect to such supervisory personnel otherwise complies with paragraph (h)(1) of this section, and include a summary of such determination in the annual compliance report prepared by the security-based swap dealer’s or major security-based swap participant’s chief compliance officer pursuant to § 240.15Fk-1(c);

(H) Procedures reasonably designed to prevent the supervisory system required by paragraph (h)(1) of this section from being compromised due to the conflicts of interest that may be present with respect to the associated person being supervised, including the position of such person, the revenue such person generates for the security-based swap dealer or major security-based swap participant, or any compensation that the associated person conducting the supervision may derive from the associated person being supervised; and

(I) Procedures reasonably designed, taking into consideration the nature of such security-based swap dealer’s or major security-based swap participant’s business, to comply with the duties set forth in section 15F(j) of the Act.

(3) Failure to Supervise. A security-based swap dealer or major security-based swap participant or an associated person of a security-based swap dealer or major security-based swap participant shall not be deemed to have failed to diligently supervise any other person, if such other person is not subject to his or her supervision, or if:

(i) The security-based swap dealer or major security-based swap participant has established and maintained written policies and procedures as required in
§ 240.15Fh-3(h)(2)(iii), and a documented system for applying those policies and procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation of the federal securities laws and the rules and regulations thereunder relating to security-based swaps; and

(ii) The security-based swap dealer or major security-based swap participant, or associated person of the security-based swap dealer or major security-based swap participant, has reasonably discharged the duties and obligations required by such written policies and procedures and documented system and did not have a reasonable basis to believe that such written policies and procedures and documented system were not being followed.

(4) Maintenance of Written Supervisory Procedures. A security-based swap dealer or major security-based swap participant shall:

(i) Promptly amend its written supervisory procedures as appropriate when material changes occur in applicable securities laws or rules or regulations thereunder, and when material changes occur in its business or supervisory system; and

(ii) Promptly communicate any material amendments to its supervisory procedures to all associated persons to whom such amendments are relevant based on their activities and responsibilities.

Rule 15Fh-4. Antifraud Provisions For Security-Based Swap Dealers and Major Security-Based Swap Participants; Special Requirements For Security-Based Swap Dealers Acting as Advisors to Special Entities.*

(a) Antifraud Provisions. It shall be unlawful for a security-based swap dealer or major security-based swap participant:

(1) To employ any device, scheme, or artifice to defraud any special entity or prospective customer who is a special entity;

(2) To engage in any transaction, practice, or course of business that operates as a fraud or deceit on any special entity or prospective customer who is a special entity; or

(3) To engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative.

(b) Special Requirements For Security-Based Swap Dealers Acting as Advisors to Special Entities. A security-based swap dealer that acts as an advisor to a special entity regarding a security-based swap shall comply with the following requirements:

(1) Duty. The security-based swap dealer shall have a duty to make a reasonable determination that any security-based swap or trading strategy involving a security-based swap recommended by the security-based swap dealer is in the best interests of the special entity.

*Effective July 12, 2016, Rule 15Fh-4 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. Compliance Date: With the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(i)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
(2) **Reasonable Efforts.** The security-based swap dealer shall make reasonable efforts to obtain such information that the security-based swap dealer considers necessary to make a reasonable determination that a security-based swap or trading strategy involving a security-based swap is in the best interests of the special entity. This information shall include, but not be limited to:

(i) The authority of the special entity to enter into a security-based swap;

(ii) The financial status of the special entity, as well as future funding needs;

(iii) The tax status of the special entity;

(iv) The hedging, investment, financing or other objectives of the special entity;

(v) The experience of the special entity with respect to entering into security-based swaps, generally, and security-based swaps of the type and complexity being recommended;

(vi) Whether the special entity has the financial capability to withstand changes in market conditions during the term of the security-based swap; and

(vii) Such other information as is relevant to the particular facts and circumstances of the special entity, market conditions and the type of security-based swap or trading strategy involving a security-based swap being recommended.

(3) **Exception.** The requirements of this paragraph (b) shall not apply with respect to a security-based swap if:

(i) The transaction is executed on a registered or exempt security-based swap execution facility or registered national securities exchange; and

(ii) The security-based swap dealer does not know the identity of the counterparty at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer to comply with the obligations of paragraph (b) of this section.

**Rule 15Fh-5. Special Requirements For Security-Based Swap Dealers and Major Security-Based Swap Participants Acting as Counterparties to Special Entities.*

(a)(1) A security-based swap dealer or major security-based swap participant that offers to enter into or enters into a security-based swap with a special entity, other than a special entity defined in § 240.15Fh-2(d)(3), must have a reasonable basis to believe that the special entity has a qualified independent representative. For these purposes, a qualified independent representative is a representative that:

(i) Has sufficient knowledge to evaluate the transaction and risks;

(ii) Is not subject to a statutory disqualification;

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*Effective July 12, 2016, Rule 15Fh-5 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. **Compliance Date:** With the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(i)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
(iii) Undertakes a duty to act in the best interests of the special entity;

(iv) Makes appropriate and timely disclosures to the special entity of material information concerning the security-based swap;

(v) Evaluates, consistent with any guidelines provided by the special entity, the fair pricing and the appropriateness of the security-based swap;

(vi) In the case of a special entity defined in §§ 240.15Fh-2(d)(2) or (5), is a person that is subject to rules of the Commission, the Commodity Futures Trading Commission or a self-regulatory organization subject to the jurisdiction of the Commission or the Commodity Futures Trading Commission prohibiting it from engaging in specified activities if certain political contributions have been made, provided that this paragraph (a)(1)(vi) shall not apply if the independent representative is an employee of the special entity; and

(vii) Is independent of the security-based swap dealer or major security-based swap participant.

(A) A representative of a special entity is independent of a security-based swap dealer or major security-based swap participant if the representative does not have a relationship with the security-based swap dealer or major security-based swap participant, whether compensatory or otherwise, that reasonably could affect the independent judgment or decision-making of the representative.

(B) A representative of a special entity will be deemed to be independent of a security-based swap dealer or major security-based swap participant if:

(1) The representative is not and, within one year of representing the special entity in connection with the security-based swap, was not an associated person of the security-based swap dealer or major security-based swap participant;

(2) The representative provides timely disclosures to the special entity of all material conflicts of interest that could reasonably affect the judgment or decision making of the representative with respect to its obligations to the special entity and complies with policies and procedures reasonably designed to manage and mitigate such material conflicts of interest; and

(3) The security-based swap dealer or major security-based swap participant did not refer, recommend, or introduce the representative to the special entity within one year of the representative’s representation of the special entity in connection with the security-based swap.

(2) A security-based swap dealer or major security-based swap participant that offers to enter into or enters into a security-based swap with a special entity as defined in § 240.15Fh-2(d)(3) must have a reasonable basis to believe that the special entity has a representative that is a fiduciary as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(b) Safe Harbor.

(1) A security-based swap dealer or major security-based swap participant shall be deemed to have a reasonable basis to believe that the special entity, other than a special entity defined in § 240.15Fh-2(d)(3), has a representative that satisfies the applicable requirements of paragraph (a)(1) of this section, provided that:

(i) The special entity represents in writing to the security-based swap dealer or major security-based swap participant that it has complied in good faith with written policies and procedures reasonably designed to ensure that it has selected a representative that satisfies the applicable requirements of paragraph (a)(1) of this section,
and that such policies and procedures provide for ongoing monitoring of the performance of such representative consistent with the requirements of paragraph (a)(1) of this section; and

(ii) The representative represents in writing to the special entity and security-based swap dealer or major security-based swap participant that the representative:

(A) Has policies and procedures reasonably designed to ensure that it satisfies the applicable requirements of paragraph (a)(1) of this section;

(B) Meets the independence test in paragraph (a)(1)(vii) of this section; has the knowledge required under paragraph (a)(1)(i) of this section; is not subject to a statutory disqualification under paragraph (a)(1)(ii) of this section; undertakes a duty to act in the best interests of the special entity as required under paragraph (a)(1)(iii) of this section; and is subject to the requirements regarding political contributions, as applicable, under paragraph (a)(1)(vi) of this section; and

(C) Is legally obligated to comply with the applicable requirements of paragraph (a)(1) of this section by agreement, condition of employment, law, rule, regulation, or other enforceable duty.

(2) A security-based swap dealer or major security-based swap participant shall be deemed to have a reasonable basis to believe that a special entity defined in § 240.15Fh-2(d)(3) of this section has a representative that satisfies the applicable requirements in paragraph (a)(2) of this section, provided that the special entity provides in writing to the security-based swap dealer or major security-based swap participant the representative’s name and contact information, and represents in writing that the representative is a fiduciary as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(c) Before initiation of a security-based swap with a special entity, a security-based swap dealer shall disclose to the special entity in writing the capacity in which the security-based swap dealer is acting in connection with the security-based swap and, if the security-based swap dealer engages in business with the counterparty in more than one capacity, the security-based swap dealer shall disclose the material differences between such capacities and any other financial transaction or service involving the counterparty.

(d) The requirements of this section shall not apply with respect to a security-based swap if:

(1) The transaction is executed on a registered or exempt security-based swap execution facility or registered national securities exchange; and

(2) The security-based swap dealer or major security-based swap participant does not know the identity of the counterparty at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer or major security-based swap participant to comply with the obligations of paragraphs (a) through (c) of this section.

Rule 15Fh-6. Political Contributions By Certain Security-Based Swap Dealers.*

(a) Definitions. For the purposes of this section:

*Effective July 12, 2016, Rule 15Fh-6 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of substituted compliance. See SEC Release No. 34-77617; April 14, 2016. Compliance Date: With
(1) The term *contribution* means any gift, subscription, loan, advance, or deposit of money or anything of value made:

(i) For the purpose of influencing any election for federal, state or local office;

(ii) For payment of debt incurred in connection with any such election; or

(iii) For transition or inaugural expenses incurred by the successful candidate for state or local office.

(2) The term *covered associate* means:

(i) Any general partner, managing member or executive officer, or other person with a similar status or function;

(ii) Any employee who solicits a municipal entity to enter into a security-based swap with the security-based swap dealer and any person who supervises, directly or indirectly, such employee; and

(iii) A political action committee controlled by the security-based swap dealer or by a person described in paragraphs (a)(2)(i) and (ii) of this section.

(3) The term *executive officer of a security-based swap dealer* means:

(i) The president;

(ii) Any vice president in charge of a principal business unit, division or function (such as sales, administration or finance);

(iii) Any other officer of the security-based swap dealer who performs a policy-making function; or

(iv) Any other person who performs similar policy-making functions for the security-based swap dealer.

(4) The term *municipal entity* is defined in section 15B(e)(8) of the Act.

(5) The term *official of a municipal entity* means any person (including any election committee for such person) who was, at the time of the contribution, an incumbent, candidate or successful candidate for elective office of a municipal entity, if the office:

(i) Is directly or indirectly responsible for, or can influence the outcome of, the selection of a security-based swap dealer by a municipal entity; or

(ii) Has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the selection of a security-based swap dealer by a municipal entity.

(6) The term *payment* means any gift, subscription, loan, advance, or deposit of money or anything of value.

(7) The term *regulated person* means:

(i) A person that is subject to rules of the Commission, the Commodity Futures Trading Commission or a self-regulatory organization subject to the jurisdiction of the Commission.

the exception of the application of customer protection requirements described in Rule 3a71-3(c) to transactions described under Rule 3a71-3(a)(8)(i)(B), the compliance date for Rules 15Fh-1 through 15Fh-6 and Rule 15Fk-1 is the same as the compliance date of the SBS Entity registration rules.
Commission or the Commodity Futures Trading Commission prohibiting it from engaging in specified activities if certain political contributions have been made, or its officers or employees;

(ii) A general partner, managing member or executive officer of such person, or other individual with a similar status or function; or

(iii) An employee of such person who solicits a municipal entity for the security-based swap dealer and any person who supervises, directly or indirectly, such employee.

(8) The term solicit means a direct or indirect communication by any person with a municipal entity for the purpose of obtaining or retaining an engagement related to a security-based swap.

(b) Prohibitions and Exceptions.

(1) It shall be unlawful for a security-based swap dealer to offer to enter into, or enter into, a security-based swap, or a trading strategy involving a security-based swap, with a municipal entity within two years after any contribution to an official of such municipal entity was made by the security-based swap dealer, or by any covered associate of the security-based swap dealer.

(2) The prohibition in paragraph (b)(1) of this section does not apply:

(i) If the only contributions made by the security-based swap dealer to an official of such municipal entity were made by a covered associate, if a natural person:

(A) To officials for whom the covered associate was entitled to vote at the time of the contributions, if the contributions in the aggregate do not exceed $350 to any one official per election; or

(B) To officials for whom the covered associate was not entitled to vote at the time of the contributions, if the contributions in the aggregate do not exceed $150 to any one official, per election;

(ii) To a security-based swap dealer as a result of a contribution made by a natural person more than six months prior to becoming a covered associate of the security-based swap dealer, however, this exclusion shall not apply if the natural person, after becoming a covered associate, solicits the municipal entity on behalf of the security-based swap dealer to offer to enter into, or to enter into, security-based swap, or a trading strategy involving a security-based swap; or

(iii) With respect to a security-based swap that is executed on a registered national securities exchange or registered or exempt security-based swap execution facility where the security-based swap dealer does not know the identity of the counterparty to the transaction at a reasonably sufficient time prior to execution of the transaction to permit the security-based swap dealer to comply with the obligations of paragraph (b)(1) of this section.

(3) No security-based swap dealer or any covered associate of the security-based swap dealer shall:

(i) Provide or agree to provide, directly or indirectly, payment to any person to solicit a municipal entity to offer to enter into, or to enter into, a security-based swap or any trading strategy involving a security-based swap with that security-based swap dealer unless such person is a regulated person; or
(ii) Coordinate, or solicit any person or political action committee to make, any:

(A) Contribution to an official of a municipal entity with which the security-based swap dealer is offering to enter into, or has entered into, a security-based swap or a trading strategy involving a security-based swap; or

(B) Payment to a political party of a state or locality with which the security-based swap dealer is offering to enter into, or has entered into, a security-based swap or a trading strategy involving a security-based swap.

(c) *Circumvention of Rule.* No security-based swap dealer shall, directly or indirectly, through or by any other person or means, do any act that would result in a violation of paragraph (a) or (b) of this section.

(d) *Requests For Exemption.* The Commission, upon application, may conditionally or unconditionally exempt a security-based swap dealer from the prohibition under paragraph (b)(1) of this section. In determining whether to grant an exemption, the Commission will consider, among other factors:

1. Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes of the Act;

2. Whether the security-based swap dealer:

   (i) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of this section;

   (ii) Prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and

   (iii) After learning of the contribution:

   (A) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and

   (B) Has taken such other remedial or preventive measures as may be appropriate under the circumstances;

3. Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the security-based swap dealer, or was seeking such employment;

4. The timing and amount of the contribution which resulted in the prohibition;

5. The nature of the election (e.g., federal, state or local); and

6. The contributor’s apparent intent or motive in making the contribution that resulted in the prohibition, as evidenced by the facts and circumstances surrounding the contribution.

(e) *Prohibitions Inapplicable.*

1. The prohibitions under paragraph (b) of this section shall not apply to a contribution made by a covered associate of the security-based swap dealer if:

   (i) The security-based swap dealer discovered the contribution within 120 calendar days of the date of such contribution;

   (ii) The contribution did not exceed $350; and

   (iii) The covered associate obtained a return of the contribution within 60 calendar days of the date of discovery of the contribution by the security-based swap dealer.
(2) A security-based swap dealer that has more than 50 covered associates may not rely on paragraph (e)(1) of this section more than three times in any 12-month period, while a security-based swap dealer that has 50 or fewer covered associates may not rely on paragraph (e)(1) of this section more than twice in any 12-month period.

(3) A security-based swap dealer may not rely on paragraph (e)(1) of this section more than once for any covered associate, regardless of the time between contributions.

Rule 15Fi-1. Definitions.*

For the purposes of § 240.15Fi-1 and § 240.15Fi-2:

(a) The term business day means any day other than a Saturday, Sunday, or legal holiday.


(c) The term clearing transaction means a security-based swap that has a clearing agency as a direct counterparty.

(d) The term day of execution means the calendar day of the counterparty to the security-based swap transaction that ends the latest, provided that if a security-based swap transaction is

1. Entered into after 4:00 p.m. in the place of a counterparty; or
2. Entered into on a day that is not a business day in the place of a counterparty, then such security-based swap transaction shall be deemed to have been entered into by that counterparty on the immediately succeeding business day of that counterparty, and the day of execution shall be determined with reference to such business day.

(e) The term execution means the point at which the counterparties become irrevocably bound to a transaction under applicable law.


*Effective August 16, 2016, Rule 15Fi-1 is added in accordance with § 764(a) of Title VII of the Dodd-Frank Act to require security-based swap dealers and major security-based swap participants to provide trade acknowledgments and to verify those trade acknowledgments in security-based swap transactions. See SEC Release No. 34-78011; June 8, 2016. Compliance Date: SBS Entities will not be required to comply with Rules 15Fi-1 and 15Fi-2 until they are registered. Thus, the SEC adopted a compliance date for these rules that is the same as the compliance date of the SBS Entity registration rules, which is the later of: (a) six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin, and segregation requirements for SBS Entities; (b) the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; (c) the compliance date of final rules establishing business conduct requirements under Exchange Act §§ 15F(h) and 15F(k); or (d) the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf.
(h) The term trade acknowledgment means a written or electronic record of a security-based swap transaction sent by one counterparty of the security-based swap transaction to the other.

(i) The term verification means the process by which a trade acknowledgment has been manually, electronically, or by some other legally equivalent means, signed by the receiving counterparty.


(a) Trade Acknowledgment Requirement. In any transaction in which a security-based swap dealer or major security-based swap participant purchases from or sells to any counterparty a security-based swap, a trade acknowledgment must be provided by:

(1) The security-based swap dealer, if the transaction is between a security-based swap dealer and a major security-based swap participant;

(2) The security-based swap dealer or major security-based swap participant, if only one counterparty in the transaction is a security-based swap dealer or major security-based swap participant; or

(3) The counterparty that the counterparties have agreed will provide the trade acknowledgment in any transaction other than one described by paragraph (a)(1) or (a)(2) of this section.

(b) Prescribed Time. Any trade acknowledgment required by paragraph (a) of this section must be provided promptly, but in any event by the end of the first business day following the day of execution.

(c) Form and Content of Trade Acknowledgment. Any trade acknowledgment required by paragraph (a) of this section must be provided through electronic means that provide reasonable assurance of delivery and a record of transmittal, and must disclose all the terms of the security-based swap transaction.

(d) Trade Verification.

(1) A security-based swap dealer or major security-based swap participant must establish, maintain, and enforce written policies and procedures that are reasonably designed to obtain prompt verification of the terms of a trade acknowledgment provided pursuant to paragraph (a) of this section.

*Effective August 16, 2016, Rule 15Fi-2 is added in accordance with § 764(a) of Title VII of the Dodd-Frank Act to require security-based swap dealers and major security-based swap participants to provide trade acknowledgments and to verify those trade acknowledgments in security-based swap transactions. See SEC Release No. 34-78011; June 8, 2016. Compliance Date: SBS Entities will not be required to comply with Rules 15Fi-1 and 15Fi-2 until they are registered. Thus, the SEC adopted a compliance date for these rules that is the same as the compliance date of the SBS Entity registration rules, which is the later of: (a) six months after the date of publication in the Federal Register of a final rule release adopting rules establishing capital, margin, and segregation requirements for SBS Entities; (b) the compliance date of final rules establishing recordkeeping and reporting requirements for SBS Entities; (c) the compliance date of final rules establishing business conduct requirements under Exchange Act §§ 15F(h) and 15F(k); or (d) the compliance date for final rules establishing a process for a registered SBS Entity to make an application to the SEC to allow an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on the SBS Entity’s behalf.
Rule 15Fk-1

(2) A security-based swap dealer or major security-based swap participant must promptly verify the accuracy of, or dispute with its counterparty, the terms of a trade acknowledgment it receives pursuant to paragraph (a) of this section.

(e) Exception For Clearing Transactions. A security-based swap dealer or major security-based swap participant is excepted from the requirements of this section with respect to any clearing transaction.

(f) Exception for transactions executed on a security-based swap execution facility or national securities exchange or accepted for clearing by a clearing agency.

(1) A security-based swap dealer or major security-based swap participant is excepted from the requirements of this subsection with respect to any security-based swap transaction executed on a security-based swap execution facility or national securities exchange, provided that the rules, procedures or processes of the security-based swap execution facility or national securities exchange provide for the acknowledgment and verification of all terms of the security-based swap transaction no later than the time required by paragraphs (b) and (d)(2) of this section.

(2) A security-based swap dealer or major security-based swap participant is excepted from the requirements of this subsection with respect to any security-based swap transaction that is submitted for clearing to a clearing agency, provided that:

   (i) The security-based swap transaction is submitted for clearing as soon as technologically practicable, but in any event no later than the time established for providing a trade acknowledgment under paragraph (b) of this section; and

   (ii) The rules, procedures or processes of the clearing agency provide for the acknowledgment and verification of all terms of the security-based swap transaction prior to or at the same time that the security-based swap transaction is accepted for clearing.

(3) If a security-based swap dealer or major security-based swap participant receives notice that a security-based swap transaction has not been acknowledged and verified pursuant to the rules, procedures or processes of a security-based swap execution facility or a national securities exchange, or accepted for clearing by a clearing agency, the security-based swap dealer or major security-based swap participant shall comply with the requirements of this section with respect to such security-based swap transaction as if such security-based swap transaction were executed at the time the security-based swap dealer or major security-based swap participant receives such notice.

(g) Exemption From § 240.10b-10. A security-based swap dealer or major security-based swap participant that is also a broker or dealer, is purchasing from or selling to any counterparty, and that complies with paragraph (a) or (d)(2) of this section with respect to the security-based swap transaction, is exempt from the requirements of § 240.10b-10 with respect to the security-based swap transaction.

Rule 15Fk-1. Designation of Chief Compliance Officer For Security-Based Swap Dealers and Major Security-Based Swap Participants.*

(a) In General. A security-based swap dealer and major security-based swap participant shall designate an individual to serve as a chief compliance officer on its registration form.

*Effective July 12, 2016, Rule 15Fk-1 is added as part of rules intended to implement provisions of Title VII of the Dodd-Frank Act relating to business conduct standards and the designation of a chief compliance officer for security-based swap dealers and major security-based swap participants as well as address the cross-border application of the rules and the availability of
(b) **Duties.** The chief compliance officer shall:

(1) Report directly to the board of directors or to the senior officer of the security-based swap dealer or major security-based swap participant; and

(2) Take reasonable steps to ensure that the registrant establishes, maintains and reviews written policies and procedures reasonably designed to achieve compliance with the Act and the rules and regulations thereunder relating to its business as a security-based swap dealer or major security-based swap participant by:

(i) Reviewing the compliance of the security-based swap dealer or major security-based swap participant with respect to the security-based swap dealer and major security-based swap participant requirements described in section 15F of the Act, and the rules and regulations thereunder, where the review shall involve preparing the registrant’s annual assessment of its written policies and procedures reasonably designed to achieve compliance with section 15F of the Act, and the rules and regulations thereunder, by the security-based swap dealer or major security-based swap participant;

(ii) Taking reasonable steps to ensure that the registrant establishes, maintains and reviews policies and procedures reasonably designed to remediate non-compliance issues identified by the chief compliance officer through any means, including any:

(A) Compliance office review;

(B) Look-back;

(C) Internal or external audit finding;

(D) Self-reporting to the Commission and other appropriate authorities; or

(E) Complaint that can be validated; and

(iii) Taking reasonable steps to ensure that the registrant establishes and follows procedures reasonably designed for the handling, management response, remediation, retesting, and resolution of non-compliance issues;

(3) In consultation with the board of directors or the senior officer of the security-based swap dealer or major security-based swap participant, take reasonable steps to resolve any material conflicts of interest that may arise; and

(4) Administer each policy and procedure that is required to be established pursuant to section 15F of the Act and the rules and regulations thereunder.

(c) **Annual Reports—**

(1) In General. The chief compliance officer shall annually prepare and sign a compliance report that contains a description of the written policies and procedures of the security-based swap dealer or major security-based swap participant described in paragraph (b) of this section (including the code of ethics and conflict of interest policies).
(2) Requirements.

(i) Each compliance report shall also contain, at a minimum, a description of:

(A) The security-based swap dealer or major security-based swap participant’s assessment of the effectiveness of its policies and procedures relating to its business as a security-based swap dealer or major security-based participant;

(B) Any material changes to the registrant’s policies and procedures since the date of the preceding compliance report;

(C) Any areas for improvement, and recommended potential or prospective changes or improvements to its compliance program and resources devoted to compliance;

(D) Any material non-compliance matters identified; and

(E) The financial, managerial, operational, and staffing resources set aside for compliance with the Act and the rules and regulations thereunder relating to its business as a security-based swap dealer or major security-based swap participant, including any material deficiencies in such resources.

(ii) A compliance report under paragraph (c)(1) of this section also shall:

(A) Be submitted to the Commission within 30 days following the deadline for filing the security-based swap dealer’s or major security-based swap participant’s annual financial report with the Commission pursuant to section 15F of the Act and rules and regulations thereunder;

(B) Be submitted to the board of directors and audit committee (or equivalent bodies) and the senior officer of the security-based swap dealer or major security-based swap participant prior to submission to the Commission;

(C) Be discussed in one or more meetings conducted by the senior officer with the chief compliance officer(s) in the preceding 12 months, the subject of which addresses the obligations in this section; and

(D) Include a certification by the chief compliance officer or senior officer that, to the best of his or her knowledge and reasonable belief and under penalty of law, the information contained in the compliance report is accurate and complete in all material respects.

(iii) Extensions of Time. A security-based swap dealer or major security-based swap participant may request from the Commission an extension of time to submit its compliance report, provided the registrant’s failure to timely submit the report could not be eliminated by the registrant without unreasonable effort or expense. Extensions of the deadline will be granted at the discretion of the Commission.

(iv) Incorporation By Reference. A security-based swap dealer or major security-based swap participant may incorporate by reference sections of a compliance report that have been submitted within the current or immediately preceding reporting period to the Commission.

(v) Amendments. A security-based swap dealer or major security-based swap participant shall promptly submit an amended compliance report if material errors or omissions in the report are identified. An amendment must contain the certification required under paragraph (c)(2)(ii)(D) of this section.

(d) Compensation and Removal. The compensation and removal of the chief compliance officer shall require the approval of a majority of the board of directors of the security-based swap dealer or major security-based swap participant.
(e) Definitions. For purposes of this section, references to:

(1) The board or board of directors shall include a body performing a function similar to the board of directors.

(2) The senior officer shall include the chief executive officer or other equivalent officer.

(3) Complaint that can be validated shall include any written complaint by a counterparty involving the security-based swap dealer or major security-based swap participant or associated person of a security-based swap dealer or major security-based swap participant that can be supported upon reasonable investigation.

(4) A material non-compliance matter means any non-compliance matter about which the board of directors of the security-based swap dealer or major security-based swap participant would reasonably need to know to oversee the compliance of the security-based swap dealer or major security-based swap participant, and that involves, without limitation:

(i) A violation of the federal securities laws relating to its business as a security-based swap dealer or major security-based swap participant by the firm or its officers, directors, employees or agents;

(ii) A violation of the policies and procedures relating to its business as a security-based swap dealer or major security-based swap participant by the firm or its officers, directors, employees or agents; or

(iii) A weakness in the design or implementation of the policies and procedures relating to its business as a security-based swap dealer or major security-based swap participant.

Rule 15Ga-1. Repurchases and Replacements Relating to Asset-Backed Securities.

(a) General. With respect to any asset-backed security (as that term is defined in Section 3(a)(79) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(79)) for which the underlying transaction agreements contain a covenant to repurchase or replace an underlying asset for breach of a representation or warranty, a securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934) shall disclose fulfilled and unfulfilled repurchase requests across all trusts by providing the information required in paragraph (a)(1) of this section concerning all assets securitized by the securitizer that were the subject of a demand to repurchase or replace for breach of the representations and warranties concerning the pool assets for all asset-backed securities held by non-affiliates of the securitizer during the reporting period.

[Text continues on the next page.]
<table>
<thead>
<tr>
<th>Name of Issuing Entity</th>
<th>Check if Registered</th>
<th>Name of Originator</th>
<th>Total Assets in ABS by Originator</th>
<th>Assets That Were Subject of Demand</th>
<th>Assets That Were Repurchased or Replaced</th>
<th>Assets Pending Repurchase or Replacement (within cure period)</th>
<th>Demand in Dispute</th>
<th>Demand Withdrawn</th>
<th>Demand Rejected</th>
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Rule 15Ga-1
(1) The table shall:

(i) Disclose the asset class and group the issuing entities by asset class (column (a)).

(ii) Disclose the name of the issuing entity (as that term is defined in Item 1101(f) of Regulation AB (17 CFR 229.1101(f)) of the asset-backed securities. List the issuing entities in order of the date of formation (column (a)).

Instruction to Paragraph (a)(1)(ii): Include all issuing entities with outstanding asset-backed securities during the reporting period.

(iii) For each named issuing entity, indicate by check mark whether the transaction was registered under the Securities Act of 1933 (column (b)) and disclose the CIK number of the issuing entity (column (a)).

(iv) Disclose the name of the originator of the underlying assets (column (c)).

Instruction to Paragraph (a)(1)(iv): Include all originators that originated assets in the asset pool for each issuing entity.

(v) Disclose the number, outstanding principal balance and percentage by principal balance of assets at the time of securitization (columns (d) through (f)).

(vi) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were subject of a demand to repurchase or replace for breach of representations and warranties (columns (g) through (i)).

(vii) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were repurchased or replaced for breach of representations and warranties (columns (j) through (l)).

(viii) Disclose the number, outstanding principal balance and percentage by principal balance of assets that are pending repurchase or replacement for breach of representations and warranties due to the expiration of a cure period (columns (m) through (o)).

(ix) Disclose the number, outstanding principal balance and percentage by principal balance of assets that are pending repurchase or replacement for breach of representations and warranties because the demand is currently in dispute (columns (p) through (r)).

(x) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were not repurchased or replaced because the demand was withdrawn (columns (s) through (u)).

(xi) Disclose the number, outstanding principal balance and percentage by principal balance of assets that were not repurchased or replaced because the demand was rejected (columns (v) through (x)).

Instruction to Paragraphs (a)(1)(vi) through (xi): For purposes of these paragraphs (a)(1)(vi) through (xi) the outstanding principal balance shall be the principal balance as of the reporting period end date and the percentage by principal balance shall be the outstanding principal balance of an asset divided by the outstanding principal balance of the asset pool as of the reporting period end date.

(xii) Provide totals by asset class, issuing entity and for all issuing entities for columns that require number of assets and principal amounts (columns (d), (e), (g), (h), (j), (k), (m), (n), (p), (q), (s), (t), (v) and (w)).
Instruction 1 to Paragraph (a)(1): The table should include any activity during the reporting period, including activity related to assets subject to demands made prior to the beginning of the reporting period.

Instruction 2 to Paragraph (a)(1): Indicate by footnote and provide narrative disclosure in order to further explain the information presented in the table, as appropriate.

(2) If any of the information required by paragraph (a) is unknown and not available to the securitizer without unreasonable effort or expense, such information may be omitted, provided the securitizer provides the information it possesses or can acquire without unreasonable effort or expense, and the securitizer includes a statement showing that unreasonable effort or expense would be involved in obtaining the omitted information. Further, if a securitizer requested and was unable to obtain all information with respect to investor demands upon a trustee that occurred prior to July 22, 2010, so state by footnote. In this case, also state that the disclosures do not contain investor demands upon a trustee made prior to July 22, 2010.

(b) In the case of multiple affiliated securitizers for a single asset-backed securities transaction, if one securitizer has filed all the disclosures required in order to meet the obligations under paragraph (a) of this section, other affiliated securitizers shall not be required to separately provide and file the same disclosures related to the same asset-backed security.

(c) The disclosures in paragraph (a) of this section shall be provided by a securitizer:

(1) For the three year period ended December 31, 2011, by any securitizer that issued an asset-backed security during the period, or organized and initiated an asset-backed securities transaction during the period, by securitizing an asset, either directly or indirectly, including through an affiliate, in each case, if the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty and the securitizer has asset-backed securities, containing such a covenant, outstanding and held by non-affiliates as of the end of the three year period. If a securitizer has no activity to report, it shall indicate by checking the appropriate box on Form ABS-15G (17 CFR 249.1400). The requirement of the paragraph (c)(1) applies to all issuances of asset-backed securities whether or not publicly registered under the provisions of the Securities Act of 1933. The disclosures required by this paragraph (c)(1) shall be filed no later than February 14, 2012.

Instruction to Paragraph (c)(1): For demands made prior to January 1, 2009, the disclosure should include any related activity subsequent to January 1, 2009 associated with such demand.

(2) For each calendar quarter, by any securitizer that issued an asset-backed security during the period, or organized and initiated an asset-backed securities transaction by securitizing an asset, either directly or indirectly, including through an affiliate, or had outstanding asset-backed securities held by non-affiliates during the period, in each case, if the underlying transaction agreements provide a covenant to repurchase or replace an underlying asset for breach of a representation or warranty. The disclosures required by this paragraph (c)(2) shall be filed no later than 45 calendar days after the end of such calendar quarter:

(i) Except that, a securitizer may suspend its duty to provide periodic quarterly disclosures if no activity occurred during the initial filing period in paragraph (c)(1) of this section or during a calendar quarter that is required to be reported under paragraph (a) of this section. A securitizer shall indicate that it has no activity to report by checking the appropriate box on Form ABS-15G (17 CFR 249.1400). Thereafter, a periodic quarterly report required by this paragraph (c)(2) will only be required if a
change in the demand, repurchase or replacement activity occurs that is required to be reported under paragraph (a) of this section during a calendar quarter; and

(ii) Except that, annually, any securitizer that has suspended its duty to provide quarterly disclosures pursuant to paragraph (c)(2)(i) of this section must confirm that no activity occurred during the previous calendar year by checking the appropriate box on Form ABS-15G (17 CFR 249.1400). The confirmation required by this paragraph (c)(2)(ii) shall be filed no later than 45 days after each calendar year.

(3) Except that, if a securitizer has no asset-backed securities outstanding held by non-affiliates, the duty under paragraph (c)(2) of this section to file periodically the disclosures required by paragraph (a) of this section shall be terminated immediately upon filing a notice on Form ABS-15G (17 CFR 249.1400).

Rule 15Ga-2. Findings and Conclusions of Third-Party Due Diligence Reports.

(a) The issuer or underwriter of an offering of any asset-backed security (as that term is defined in Section 3(a)(79) of the Act (15 U.S.C. 78c(a)(79))) that is to be rated by a nationally recognized statistical rating organization must furnish Form ABS-15G (§249.1400 of this chapter) to the Commission containing the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter at least five business days prior to the first sale in the offering.

Instruction to Paragraph (a): Disclosure of the findings and conclusions includes, but is not limited to, disclosure of the criteria against which the loans were evaluated, and how the evaluated loans compared to those criteria along with the basis for including any loans not meeting those criteria. This disclosure is only required for an initial rating and does not need to be furnished in connection with any subsequent rating actions. For purposes of this rule, the date of first sale is the date on which the first investor is irrevocably contractually committed to invest, which, depending on the terms and conditions of the contract, could be the date on which the issuer receives the investor’s subscription agreement or check.

(b) In the case where the issuer and one or more underwriters have obtained the same third-party due diligence report related to a particular asset-backed securities transaction, if any one such party has furnished all the disclosures required in order to meet the obligations under paragraph (a) of this section, the other party or parties are not required to separately furnish the same disclosures related to such third-party due diligence report.

(c) If the disclosure required by this rule has been made in the prospectus (including an attribution to the third-party that provided the third-party due diligence report), the issuer or underwriter may refer to that section of the prospectus in Form ABS-15G rather than providing the findings and conclusions itself directly in Form ABS-15G.

(d) For purposes of paragraphs (a) and (b) of this section, issuer is defined in Rule 17g-10(d)(2) (§240.17g-10(d)(2) of this chapter) and third-party due diligence report means any report containing findings and conclusions of any due diligence services as defined in Rule 17g-10(d)(1) (§240.17g-10(d)(1) of this chapter) performed by a third party.

(e) The requirements of this rule would not apply to an offering of an asset-backed security if certain conditions are met, including:

(i) The offering is not required to be, and is not, registered under the Securities Act of 1933;

(ii) The issuer of the rated security is not a U.S. person (as defined under Securities Act Rule 902(k)); and
(iii) The security issued by the issuer will be offered and sold upon issuance, and any underwriter or arranger linked to the security will effect transactions of the security after issuance, only in transactions that occur outside the United States.

(f) The requirements of this rule would not apply to an offering of an asset-backed security if certain conditions are met, including:

(i) The issuer of the rated security is a municipal issuer; and

(ii) The offering is not required to be, and is not, registered under the Securities Act of 1933.

(g) For purposes of paragraph (f) of this section, a municipal issuer is an issuer (as that term is defined in Rule 17g-10(d)(2) (§ 240.17g-10(d)(2) of this chapter)) that is any State or Territory of the United States, the District of Columbia, any political subdivision of any State, Territory or the District of Columbia, or any public instrumentality of one or more States, Territories or the District of Columbia.

(h) An offering of an asset-backed security that is exempted from the requirements of this rule pursuant to paragraph (f) of this section remains subject to the requirements of Section 15E(s)(4)(A) of the Act (15 U.S.C. 78o-7(s)(4)(A)), which requires that the issuer or underwriter of any asset-backed security shall make publicly available the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter.